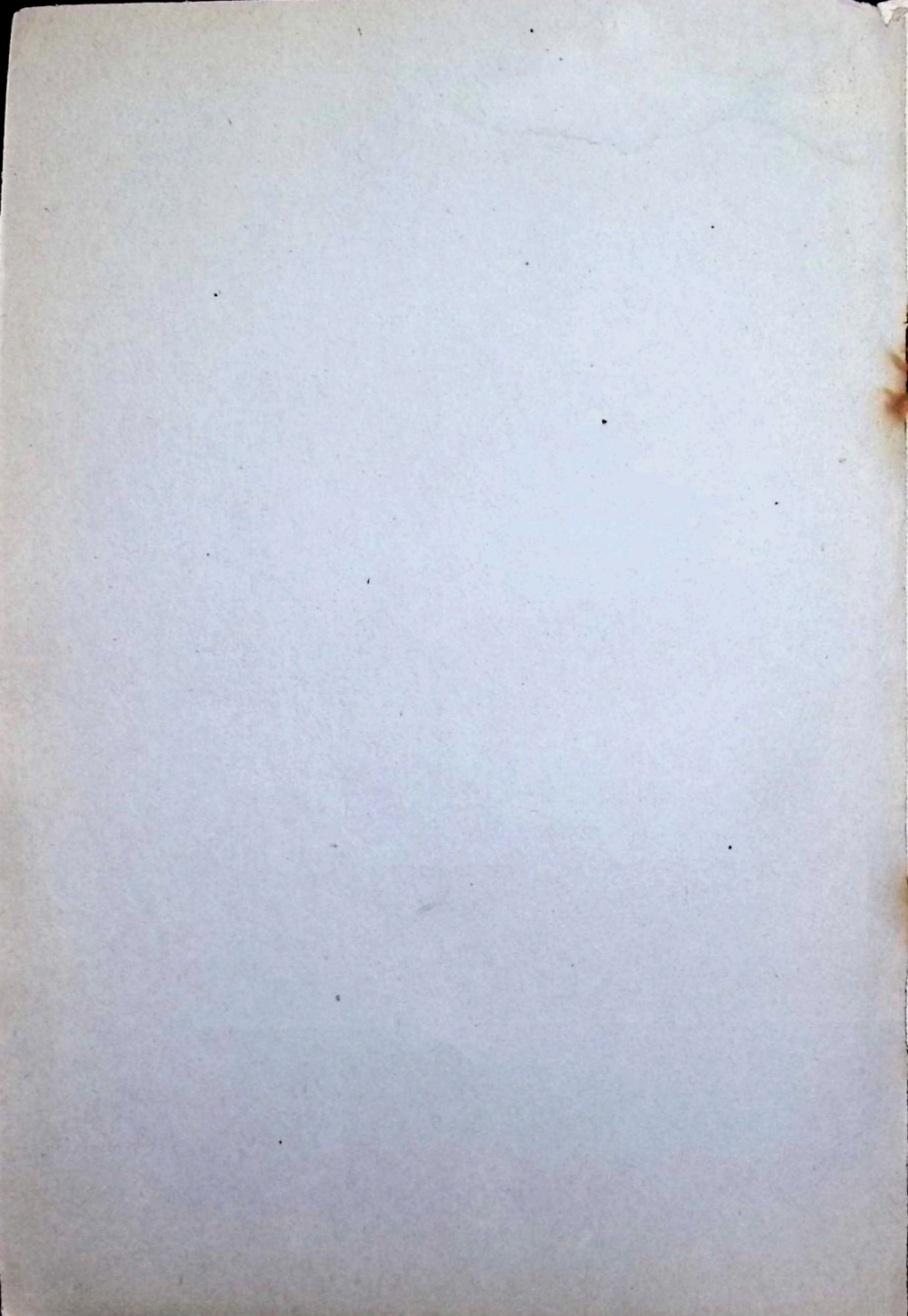


EDITED BY ROBERT W. DUNN

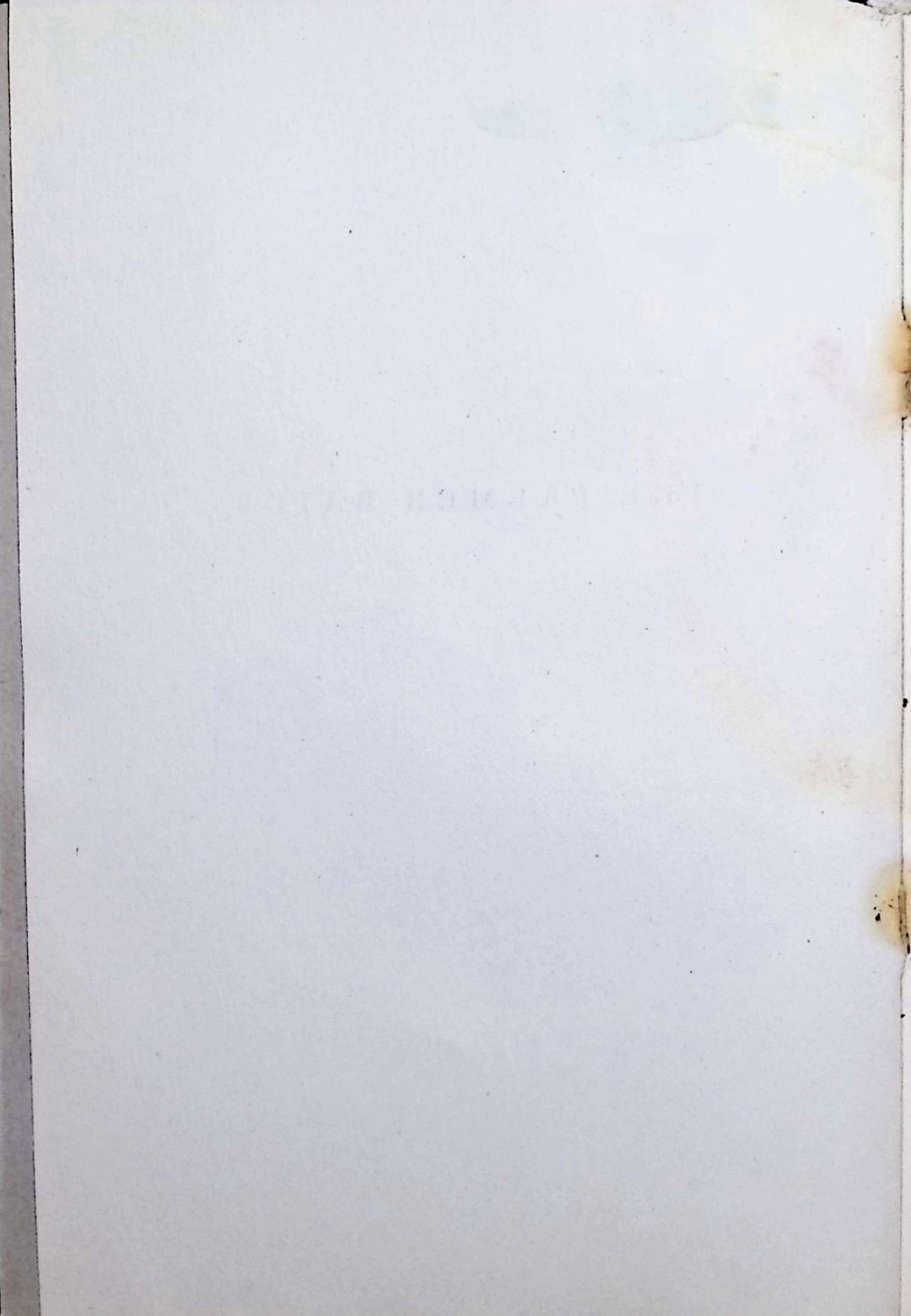
THE PALMER RAIDS

PREPARED BY

Labor Research Association



THE PALMER RAIDS



LABOR RESEARCH ASSOCIATION

THE PALMER RAIDS

Edited by Robert W. Dunn



INTERNATIONAL PUBLISHERS, NEW YORK

COPYRIGHT, 1948, BY
INTERNATIONAL PUBLISHERS CO. INC.



209

PRINTED IN THE U.S.A.

CONTENTS

<i>Foreword</i>	7
The Deportation Act	11
Some Unsolved Mystery Cases	13
Setting the Stage	20
Anti-Labor Operations	22
Dress Rehearsal	25
The Night of January 2, 1920	32
How the Raids Trampled on the Constitution	38
Violations of the Fourth Amendment	39
Violations of the Fifth Amendment	42
Violations of the Eighth Amendment	44
Violations of the First Amendment	45
The Confession of J. Edgar Hoover	47
Palmer's Side of the Story	48
Are Aliens Persons?	52
The Innocence of J. Edgar Hoover	55
Were the the Palmer Raids Necessary?	57
Manufacturing Hysteria	60
The Real Aims of the Palmer Raids	64
The Clearing of Martens	71
The Strategy Collapses	73
Thirty Years After	74
<i>Reference Notes</i>	77

part of the tactics used then and now. In the Palmer days the government moved against relatively unknown foreign-born as well as native workers attempting to terrorize them and prevent them from engaging in strikes for better conditions. Now it seeks to weaken a much stronger labor movement by similar attacks on responsible trade union leaders such as Ferdinand Smith, Negro leader, Secretary of the CIO National Maritime Union; Michael J. Obermeier of the A. F. of L. Hotel and Club Employees Union; John Santo of the CIO Transport Workers Union, and Charles Doyle of the CIO Gas, Coke and Chemical Workers.

A thirty-year-old deportation law, which has not been tested in the Supreme Court, is now used to stifle militancy in the labor movement. Prosecutions are arbitrarily instituted against progressive leaders who happen to be foreign-born, and some of whom have been prevented from becoming citizens.

As this is written we find the Department of Justice engaged in a new "deportation delirium." It has already singled out for arrest members of the National Committee of the Communist Party, Alexander Bittelman, John Williamson and Claudia Jones.

While engaged in persecuting these active working-class leaders, most of them on technical charges based on the testimony of stool pigeons, the government has been vindictive and contradictory in its treatment of the German anti-fascist Gerhart Eisler. After being detained in the United States against his will in 1942 while on his way from Europe to Mexico, he was arrested in January, 1948, on the charge of being an alien and held without bail. This followed his arrest during the previous year on a framed-up passport charge and for "contempt" of the House Un-American Committee. His latest arrest was obviously not for the purpose of deporting him, as his attorney Carol King pointed out, but rather was "a mere trick to keep him in custody for political reasons."

Recently the Attorney General, Tom C. Clark, recommended to the House Un-American Activities Committee legislation to "imprison indefinitely" non-citizens who have been ordered deported but refused visas by the countries of their birth. He

was thus in effect calling for concentration camps in America.

Outlining the recent attacks on civil rights by Mr. Clark and J. Edgar Hoover, Rev. Harry F. Ward, who was chairman of the American Civil Liberties Union for twenty years, in a recent address at a Kansas City conference of the Methodist Federation for Social Action, said:

"The first objective of the anti-democratic offensive among minority political groupings is of course the Communist Party. Since direct outlawry is clearly unconstitutional the tactic is to reach the same end by devious means.

"Already in some states the party is ruled off the ballot by judicial interpretation of the phrase 'overthrow of the government by force and violence.' It is by executive interpretation of the phrase that Communists are excluded from the country. So far the Supreme Court has dodged the question of whether Communists come under the incendiary phrase. Before long it will have to make the decision. Then it will face the fact that the constitution of the party has for some years made advocacy of overthrow of the government by force and violence, let alone participation in any violent act against the government, an offense punishable by immediate expulsion, proclaiming that the party relies upon the process of democracy for achieving its objectives.

"Also the Court will have to face," declared Dr. Ward, "the more important fact that no member of the party has ever been prosecuted for any 'overt act' against the government. There is plenty of law to cover such acts and also incitement to them; there is also abundance of willingness to use that law. It is because the witch hunters have no facts on which to base their hysterical charges that they proceed outside the law they cannot use and against the constitution they cannot invoke."

In arresting and holding for deportation aliens who are Communist Party members the Department of Justice has taken the unconstitutional position that non-citizens are not entitled to the protection of the Bill of Rights and that they can be deported for political beliefs which citizens legally may hold.

Similarly, Attorney General Clark and J. Edgar Hoover have taken an illegal and unconstitutional position in their recent blacklist of various progressive and humanitarian organizations alleged to be "subversive." This has been done without notice to the organizations involved, without statement of the charges against them, or hearings to answer the charges.

Commenting on this action, the National Lawyers Guild declared that the Attorney General "departed from basic legal and constitutional principles of this country when he stood forth before our people as the judge or censor of political orthodoxy. . . .

"The organizations listed have not been confronted with the 'evidence' against them; there has been no hearing, no opportunity for them to present their case, no impartial tribunal of representative citizens to determine the issue. This is certainly far from any fair or reasonable standard of judicial or semi-judicial process."

The National Lawyers Guild added that "As a bar association we regard it as our duty to warn of these dangers." With other organizations, such as the Civil Rights Congress and the American Committee for the Protection of Foreign Born, it believes that another period of political hysteria and terror would not be good for the United States. The Palmer raids and the recent acts of government agencies indicate clearly that only through eternal vigilance can the American people prevent further assaults on their liberties and civil rights.

In preparing this pamphlet we have consulted the material gathered by the late attorney Joseph R. Brodsky who for many years defended persons framed or unjustly accused in connection with working-class and progressive activities. Brodsky devoted his life to exposing such acts as are described here. He represented both labor unions and hundreds of individuals, both native and foreign-born, who were victims of government and employer repression.

March 1, 1948

R.W.D.

THE PALMER RAIDS

Eternal vigilance, they say, is the price of liberty.

Then they say, it can't happen here; America isn't Germany. We forget easily in America.

We have forgotten the story of the Palmer Raids.

They did happen here, and not so long ago at that. A lot of the people who were mixed up in that affair are still around: J. Edgar Hoover, for example, who is now head of the Federal Bureau of Investigation.

Six thousand innocent persons seized, arrested, thrown into jail, in one night, is a pretty big job. And when the victims are chosen because they happen to be active trade unionists, or members of certain political parties and minority groups, you can transform a free country into a despotic police state, if you can get away with a stunt like that.

Yet that was the job pulled off on the night of January 2, 1920, by Attorney General A. Mitchell Palmer and his right-hand man J. Edgar Hoover. And it happened here.

This is how it happened.

THE DEPORTATION ACT

First Congress passed a law: the Deportation Act of October 16, 1918. This act provided for deportation of aliens who are anarchists, that is to say, persons who do not believe in any form of organized government, and of aliens who believe in or advocate the overthrow by force or violence of the United States government or who are members of any organization that advocates the overthrow of government by force.

Of course, sometimes a law works out peculiarly. Take, for

example, the Espionage Act of 1917 and its amendment known as the Sedition Act of 1918. *Not one bona fide spy was ever tried or convicted under this law.*¹ But eight hundred and seventy-seven citizens were convicted under this law from June 30, 1917, to June 30, 1919, without one proved act of injury to the military services.²

Eugene Victor Debs, whom nearly a million voters wanted for President, went to jail under this law. The Socialist Victor L. Berger of Wisconsin was excluded from his seat in Congress because of a conviction under this act, a flimsy conviction later reversed by the U.S. Supreme Court. Under this law the freedom of the press was trampled on, and newspapers like the *New York Call* and the *Milwaukee Leader* were barred from the mails.

Now see what happened with this 1918 Deportation Act. Although it was worded against "aliens" and "anarchists," it was brandished at once as a weapon of propaganda against "Reds"—as ever a rather general and loose term. On January 8, 1919, the *New York World* headlined on page one:

MEET "RED" PERIL HERE WITH A PLAN TO DEPORT ALIENS

The subhead ran: "All Bolsheviks in America Being Listed by Departments of Labor and Justice."

Next it was used, but not against "Reds" and not against anarchists. It was used against militant trade unionists and foreign-born workers. On Lincoln's Birthday, 1919, fifty-four members of the Industrial Workers of the World (I.W.W.) were ordered deported.

But the war had ended. Opposition to such anti-labor tactics was growing. For their part the workers had borne the brunt of the war and were not ready to submit tamely when a big business organ announced: "Wartime wages must be liquidated."³ Having learned the worth of trade unions, they were not willing to give them up even in the face of a powerful open shop offensive by the employers. In 1919 more millions of workers went on strike than ever before in our history to win union recognition, to improve their hours and pay. Great struggles

occurred in steel and stockyards, in coal, textiles, and clothing, a general strike in Seattle, even a police strike in Boston.

On the employers' side of the fence no holds were barred in resisting every effort of the workingmen to win their legitimate demands. It was the heyday of the blacklist and the paid strike-breaker, of injunctions and anti-labor violence. Here the usefulness of the Deportation Act was most clear. It could serve to divide the workers themselves, to raise a fever heat against the foreign-born, to paralyze the most militant.

The Department of Labor was then the authority which had responsibility for deportations. It moved, but it could not move fast enough to satisfy certain interested parties. Something was needed to scare the public, to whip up hysteria.

Something was provided.

SOME UNSOLVED MYSTERY CASES

Attorney General Palmer was a nervous man. He looked with dread, or so he said,⁴ at the approach of May 1, 1919, although American workingmen had celebrated this day as a labor holiday for thirty years. It came, and passed, in 1919, without much incident. Police attacked and arrested demonstrators in New York, Boston, and Cleveland, but that was small stuff compared to other years. Still the Attorney General felt only slightly relieved, because in the meanwhile his nerves had suffered a bit of a shock.

On April 28, 1919, a package mailed to Mayor Ole Hanson of Seattle was opened and reported to contain sulphuric acid and dynamite caps. The package bore the return address of Gimbel Brothers, the well-known New York department store. This news rated a small box on the bottom of the front page of the *New York Times*. The Gimbel firm, of course, denied any responsibility for the merchandise in question.

Next day a similar parcel was reported delivered by mail to the home of Senator Thomas W. Hardwick of Georgia, where it exploded and wounded a maid. Thereupon on April 30, there

were suddenly discovered in the New York City postoffice sixteen identical packages, all bearing the Gimbel Brothers label, and addressed to various prominent citizens. Several more were reported intercepted in the mails on May 1, in Salisbury, N. C., and Salt Lake City. Altogether there were twenty-nine such packages reported. One was addressed to Attorney General Palmer, others to Postmaster General Albert J. Burleson, Secretary of Labor William B. Wilson, Judge Kenesaw Mountain Landis, John D. Rockefeller, J. P. Morgan, and others of lesser note.

This "mysterious case of the bombs in the mail" at once became the nation-wide focus of police activity. As Palmer later told the House Rules Committee in his own words:

The various chiefs of police in the cities in which these outrages were supposed to occur, the post office inspectors, the United States Secret Service and the Bureau of Investigation of the Department of Justice all met in conference and outlined plans for investigation of the conspiracy.

In due time it was discovered where the boxes and containers of the infernal machines were made, but the information led to nothing. No other clues than those furnished by the infernal machines themselves existed and the conspiracy today remains unsolved, although the best efforts of the best police departments and detective services were expended in its solution.

When the "best efforts of the best police departments" miss up on a case, the affair will bear further examination. According to the postoffice authorities, as reported in the *New York Times*, twenty-nine packages of some bulk and weight are mailed between 6 PM and 8 PM on Friday and Saturday, April 25 and 26, at three mail boxes: 32 Street and Broadway, 29 Street and Sixth Avenue, and 28 Street and Sixth Avenue. Most of these are stopped for "insufficient postage." Several go out nevertheless, and arrive in Seattle on the 28th, in Atlanta on the 29th, and in Salisbury, N. C., and Salt Lake City on May 1. The main

batch are found April 30, and the news is in the press on May 1.

To return to Palmer's testimony before the Rules Committee. Palmer speaking:

It also became apparent from the mailing dates of these bombs that the conspirators had attempted to arrange that delivery thereof would all be made on May 1, the date set for the celebration of the Communist Internationale [sic]. As a matter of fact the first bomb exploded on April 28 at the home of Senator Hardwick of Georgia, severely injuring a servant; one was delivered to Ole Hanson of Seattle, on that date, and others were not discovered until after May 1. It was the premature delivery of the bombs directed to Senator Hardwick and Mayor Ole Hanson and the quick action and vigilance of the postal authorities that none of the other bombs resulted in injury to the persons for whom they were intended.

Palmer was a bit confused about the dates. The explosion at Hardwick's was reported on April 29, and the Hanson package came first. That confusion might be explained away. However, what may bear a good deal of explaining is Palmer's peculiar remark: "premature delivery."

For whom was it premature? For the so-called "plotters"? But why should Palmer be so certain that *they* intended delivery for May 1? Actually the packages were mailed early enough to reach Seattle, Washington, by April 28, three days early, and Atlanta, Georgia, two days early.

Or was it perhaps "premature" from the viewpoint of someone who did not intend to have the packages delivered, but only discovered, and that on the eve of May 1? Was it pure chance that held up the majority of packages for "lack of postage," or was chance the cause that let several pass? How did so many parcels lie five days undelivered in this fashion? Who was interested in singling out commissioners of immigration, anti-labor prosecutors, and miscellaneous millionaires for "bomb" threats—was it "labor agitators" or "alien radicals"?

Palmer bragged that he had a file of 200,000 persons in such categories. For twelve months his own agents, the city chiefs of police, the secret service and postoffice inspectors were on the trail. Yet they found no guilty "radical."

Or was the "bomb plot" designed by someone who wanted to put a stigma upon the labor movement and upon deportable aliens, someone who could cover up the traces and very diligently not find the culprits?

That charge was made by the Socialist Party over the signature of Julius Gerber, executive secretary, in the *New York World*, May 1, 1919: "This is a plant, concocted by the police or some other secret or so-called intelligence department. . . . It is so stupid that it shows on the face of it that it is a plant."

Be that as it may, the big daily press was already beating the tom-toms. Unsupported by a single line of evidence in its own news stories, the *New York Times* editorially placed the guilt on "Bolsheviki, anarchists and IWW's"—at that time there was no Communist Party in the United States. On the same day, May 2, 1919, the news columns of the *Times* leaked the plans for the Palmer Raids, already in preparation:

The expected roundup of anarchists and other radicals who are agitating for the overthrow of this government did not begin yesterday. The authorities, it was explained yesterday, were moving slowly but thoroughly, and when the time came every person suspected of activities directed against the government, its officials, or other persons prominent in the public or private life of the country would be seized. In making arrests it is understood that the authorities will act with the expectation that all agitators of alien citizenship will be deported, while those of American citizenship will be held for criminal prosecution in the Federal courts.

It would seem that the newspapers, among others, were somewhat unready in May. But one month later they were johnny-on-the-spot. When on June 2, 1919, so-called "bomb" explosions took place in eight different cities at the same time, the *New*

York Times spread black headlines across its front page four tiers high and eight columns wide. The story covered the entire page. Prominently featured was a handsome photo of Palmer himself, the only "intended victim" of national prominence. He suffered some damage to the front porch of his house in Washington, D. C. Some gruesome fragments gave rise to the suggestion that the "bomber" himself was killed. The other men whose homes were damaged were lesser figures of local note in their own cities. None of the supposedly "intended victims" was hurt.

The hysteria in the headlines mounted. The *New York Tribune* forthwith announced "Nation-Wide Search for 'Reds' Begins" (June 4, 1919). Yet when the *Tribune* reporter in the same issue interviewed the genuine pioneer "Red," John Reed, the latter replied with calm searching analysis:

The present series of bomb explosions bears all the marks of the first series—the famous postoffice bombs—which from the addresses to which the bombs were sent and the method of sending, showed clearly that these bombs were planted by some one who was interested in terrifying the ruling class into destroying the radical labor movement in this country.

Algernon Lee, then director of the Rand School, told the *Tribune* reporter:

I am convinced that it is a frame-up, too, because of its calculated effect upon the State Commission for the investigation of Bolshevism, and upon Congress in the matter of legislation designed to curb radical movements. This plot was probably carried out by private detective agencies in the pay of unofficial organizations who have wrapped themselves in the flag of the United States.

These opinions carried no weight in Washington. Palmer called in William J. Flynn of the Secret Service to head the Bureau of Investigation. He repeated the procedure of the preceding month, calling a conference of police chiefs, detective agencies, and federal officers. The sleuths were turned loose.

They scoured through a lot of radical groups but they found no bomb-throwers. They traced clues galore like story-book detectives: a collar was checked through laundries, a necktie was traced to the store which sold it, a shoe to its cobbler, cloth from a suit, the fly-leaf of an Italian dictionary, and finally a leaflet, printed on pink paper, containing some menacing words.

The hawkshaws sniffed and prowled after all the clues for many months and ended nowhere. All the police chiefs, the detectives, and the secret service men were baffled. Yet, while the April packages could possibly have been mailed by one man in New York, this June 2 affair could hardly have been managed in eight widely separated cities except by a ring of at least eight men.

One clue, however, did lead somewhere.

On the ground that they were tracking the paper and ink of the pink leaflet, Department of Justice agents arranged in February, 1920, for the New York police to arrest one Roberto Elia, a printer associated with a group known as Galleanist anarchists, on a charge of violating the Sullivan Law concerning licenses for firearms. Then they obtained a suspended sentence, pending their efforts to get information out of him. Holding a deportation warrant over his head, they confined him for fifteen weeks not in prison, nor in the custody of the Labor Department which then had jurisdiction over deportations, but at the Department of Justice offices at 15 Park Row.

After *twice* searching the shop where Elia worked, they announced that they found pink paper similar to the leaflet. Then they arrested another worker there, named Andrea Salsedo, and held him also in the Park Row offices. Outside of a limited circle of friends and relatives these arrests apparently made no impression.

Then, early on the morning of May 3, 1920, the crushed body of Andrea Salsedo was found crumpled on the street pavement outside the Department of Justice offices. The official explanation was suicide.

Curiously, the *New York Times* reported (May 4, 1920), that at first the Department's office gave out that the deceased was one Tony Tazio, "an Italian laborer of communist tendencies who had been detained for questioning." However, Salsedo's lawyer, Marcus C. Donato, had an office in the same building, and the correct identification was therefore made public.

Next the Department of Justice gave out that Salsedo was somehow implicated in the June, 1919, explosions. Accepting its word, the *New York Tribune* (May 4, 1920), headlined its story, "Bomb Plotter Dies in Leap of 14 Floors," and quoted the confident assertion of William J. Flynn: "The death of this man will not hinder our prosecution of the others. A signed statement was obtained from him."

But time went on and neither signed statement nor prosecution were forthcoming. Later Palmer told the House Rules Committee that on March 11 Salsedo "confessed" that he had taken part in printing the leaflet, and that both Elia and Salsedo had "from time to time" identified photographs of anarchists submitted to them. Palmer and Flynn hinted that remorse, or fear of retaliation by his supposed associates, had driven Salsedo to suicide, thus bringing to America the old threadbare alibi so commonly used in police-ridden states to cover up the death of political prisoners under "third degree."

Palmer never explained why the alleged information was never used; nor why Elia and Salsedo were not kept in a usual prison but were held "by consent" (as Palmer claimed) in the Department's offices; nor why right after Salsedo's death, Elia was hastily turned over to the Labor Department for deportation.

Now here is the payoff.

Towards the end of April, a few days before Salsedo fell from the Department of Justice window, a fish-peddler friend of his came from Boston to New York to make inquiries about his fate. Two days after Salsedo's death, the fish-peddler, now back in Massachusetts, got together with another friend, a

shoemaker, and organized a protest meeting to be held in Brockton on May 9. However, they were not able to hold the rally, because on May 5 they were arrested, with the leaflets announcing the meeting in their hands.

The shoemaker and the fish-peddler were Nicola Sacco and Bartolomeo Vanzetti, and the charge under which they were finally sent to death was altogether different from the one under which they were arrested.⁵

From first to last there is the smell of frame-up about the "bomb plots."

SETTING THE STAGE

Meanwhile the setting of the stage went on. Again, as in May, without giving any evidence, the *New York Times* on June 4 declared in a leading editorial on the June bomb business: "The crimes are plainly of Bolshevist or IWW origin." The next day it accused "emissaries of the Bolshevik leader Lenin." On June 8, 1919, the *Times*, under the caption, "Russian Reds Are Busy Here," singled out for attack a fraternal society of Russian immigrants, the Union of Russian Workers. This angle filled the need for more tangible links between events in Russia and America, in order to make such charges more acceptable to the public.

At this moment there was operating in New York a Joint Legislative Committee Investigating Seditious Activities, headed by state senator Clayton R. Lusk. On June 12, 1919, Lusk's men descended on the Soviet Government Bureau in New York City. The purpose of his raid was to paralyze the efforts of Soviet envoy Ludwig C. A. K. Martens, who was endeavoring to obtain diplomatic recognition and business contracts on behalf of his

* Five years later the American Civil Liberties Union reviewed these events in *The Nation-Wide Spy System* (1924), a pamphlet exposing the Bureau of Investigation. Commenting on the events of 1919-20, the A.C.L.U. declared: "No bomb-throwers have been caught and there has been no substantiation of the charge that the bombs were the work of radicals."

government.* On June 13, 1919, at 3 P.M., Lusk's agents simultaneously invaded the Rand School of Social Science at 7 East 15th Street, the headquarters of the Socialist Party "left wing" at 43 West 20th Street, and the I.W.W. at 27 East 4th Street. Participating in the raids were "volunteers" from an outfit calling itself the American Protective League.

At the same time, with the bomb scare to help him, Palmer obtained from Congress an increase in his appropriation for the specific purpose of the detection and prosecution of persons committing crimes against the United States. Notice the word "crimes." We shall come back to it.

The first step was the creation of a full-fledged "Radical Division" in the Department of Justice's Bureau of Investigation, then headed by William J. Flynn. The new division was under the direction of J. Edgar Hoover. It stepped up the work on a card index file which had been started earlier. As Palmer explained it:

In order that the information obtained upon the ultra-radical movements might be readily accessible for use by the persons charged with the supervision of the investigations and prosecutions, there has been established as part of this division a card index system, numbering over 200,000 cards, giving detailed data not only upon individual agitators connected with the ultra-radical movement, but also upon organizations, associations, societies, publications and special conditions existing in certain localities.

Biographies are prepared of all authors, publishers,

* L.C.A.K. Martens, a Russian engineer living in the United States since 1916, presented his credentials, signed by Soviet Foreign Minister Chicherin, to the State Department on March 19, 1919. He was ignored. He then opened an office at 100 West 40th Street, New York, where he published an information magazine, *Soviet Russia*, and on behalf of his government made some \$30,000,000 worth of tentative contracts. (See Frederick L. Schuman, *American Policy Toward Russia Since 1917*, New York, 1928, p. 186.)

editors, etc., showing any connection with an ultra-radical body or movement. Stenographic reports of speeches made by individuals prominent in the various movements are properly filed and together with articles in any one of the newspapers or publications referred to above, are digested or briefed and made available for immediate reference.⁶

ANTI-LABOR OPERATIONS

Of course the Bureau's activities were not confined to academic research. The story is best told in Palmer's own words, in his testimony before the Rules Committee of the House, given with J. Edgar Hoover prompting him at his elbow. No matter what Palmer's innuendoes and accusations, he always ends up attacking some group of organized labor.⁷

First, he says, the Radical Division acted against the "Grupo Pro Prensa," consisting of fourteen Spanish anarchists in Philadelphia who plotted with fourteen anarchists in New York, supposedly with intent to kill President Wilson. Moreover, said Palmer, "this organization has not only been active in the assassination to kill [sic] public officials as shown above, but we find them very active among the marine transport workers, and they are constantly influencing the marine workers to strike."

Palmer forgot to mention the fact that the fourteen who were arrested on February 23, 1919, were released on February 28 because there was no evidence against them. (*New York Tribune*, June 4, 1919.)

The Radical Division was next concerned with the Naugatuck valley in Connecticut. Again Palmer speaks:

For some time prior to June, 1919, agitation and propaganda had been active in New Haven, Ansonia, Waterbury, and Bridgeport. On June 8 a strike was started in the Ansonia mill of the American Brass Co., being instigated entirely by the foreigners through the organization

of Russians, although several radical Americans participated. . . . It was necessary to adopt drastic methods by the state and city authorities, the department working in close cooperation. A number of the most active leaders at Ansonia were arrested on deportation warrants; some were included in the passenger list of the Buford. A black anarchist flag among other things was recovered. The meetings in Ansonia and Waterbury were held in the clubrooms of the Russian organization.

However, a number of prominent agitators who were citizens continued their efforts. The strike failed after the federal and state prosecutions.

Still the Department of Justice under Palmer was only warming up as a strikebreaking agency. The real tests were the great steel and coal strikes of 1919. Palmer speaking again:

After various maneuvers of the American Federation of Labor, and with the assistance of various radical organizations, Foster was successful in bringing about a general strike of the steel workers, in September, 1919, but through the action of the Department of Justice . . . this strike was terminated with, in reality, a complete victory for the American Federation of Labor.

Having thus helped to break the steel strike, Palmer next set about "clarifying the situation" for the United Mine Workers, who were also on strike:

The Department of Justice, appreciating the efforts which the red elements were making in influencing the miners, had an injunction issued before Judge Anderson at Indianapolis, preventing further activities on the part of the miners.

There were flagrant cases where alien members of the Union of Russian Workers and the Communist Party of America continued to influence the miners as in the State of West Virginia, but through the efforts of the Department of Justice, these individuals were thoroughly in-

vestigated and their cases submitted to the Labor Department, with a recommendation for deportation, thus clarifying the situation in this locality . . . the strike was broken.

In this manner, under guise of exposing "aliens" and "Communists" the Department of Justice functioned as a national strikebreaking agency, impartially attacking the A. F. of L., the I.W.W., and independent unions. The Department of Justice became a company spy apparatus, sending its operatives out as spies and as agents provocateurs. Said the *New York Times* on January 3, 1920, reporting the main Palmer raid swoop of the night before:

The action, though it came with dramatic suddenness, had been carefully mapped out, studied, and systematized. Every agency was ready, and every operative at his post. For months Department of Justice men, dropping all their work, had concentrated on the Reds. Agents quietly infiltrated into the radical ranks, slipped casually into centers of agitation, and went to work, sometimes as cooks in remote mining colonies, again as steel workers, and when the opportunity presented itself, as agitators of the wildest type. Although careful not to inspire, suggest or aid the advancement of overt acts or propaganda, several of the agents, "under-cover" men, managed to rise in the radical movement, and become, in at least one instance, the recognized leader of the district.

The *Times* quoted the words of W. J. Flynn:

During the steel strike, coal strike, and threatened railway strikes, secret agents moved constantly among the more radical of the agitators and collected a mass of evidence. For months an elaborate card index of the utterances, habits, and whereabouts of these men had been made.

In name against Communists and against a "revolution," in fact against all labor—that was the spirit of the hysteria as well as the cool calculation behind the Palmer raids.

DRESS REHEARSAL

In the first week of September, 1919, two dissenting groups of Left-wing members of the Socialist Party met in Chicago and formed the Communist Party and the Communist Labor Party respectively. Both conventions were held openly, in full legality, and both parties published extensive statements of their aims, program, and policies.⁸

The two parties had succeeded in winning over a majority of former Socialist Party members with wide and popular influence. Around them rallied many of the most militant people in the labor movement. For Palmer, self-appointed watchdog of big business, the Communists became the main target.

Now he began to make ready for the grand roundup of radicals which had been projected from the start of the bomb scare hysteria. The technique was ready to hand, in the form of sudden, spectacular raids developed on a local scale by the Lusk Committee in New York. But first there had to be a dress rehearsal to prepare the public mind.

The "experimental" raids⁹ were launched by Palmer on November 7, 1919. In describing these raids the next day the *New York Times* declared that the second anniversary of the Bolshevik revolution in Russia had been chosen as "the psychological moment to strike. . . ."

Armed with warrants for dangerous agitators whom Federal agents have trailed for months the raiders swarmed into the Russian People's Hall in New York and into similar gathering places of alleged "Reds" in Philadelphia, Newark, Detroit, Jackson, Mich., Ansonia, Conn., and other cities, broke up meetings, seized tons of literature, and herded the group of foreign men and women into various offices for examination, whence many of those who proved to be the most sought after of the radicals found their way into cells.

These raids in eighteen or more cities were aimed, in the first

instance, at the meeting rooms of the Union of Russian Workers, the fraternal society referred to above.

Why was this organization picked for the raids? Actually it might seem that it didn't matter who was raided, so long as someone was. For example, readers of the *New York Tribune* on November 8, 1919, saw an eight-column headline,

150 ARRESTED HERE AS U. S. STARTS ROUNDUP OF "REDS"

They also saw subheads:

ALL RADICAL LEADERS TO BE DEPORTED
AIMED AT PLOT FOR REVOLUTION IN U. S.
BOMB SQUAD ARRESTS 150 IN RED ROUNDUP

But they did not see one reference to the Union of Russian Workers by name. This organization was singled out for various reasons. First of all its members were Russians, and so served the purpose. Second, as Russians who had emigrated from tsarist Russia to a democratic republic, they had written a declaration against tsarism into their constitution—and so a twisted charge of being "against government" could be pinned on them. Third, as the *New York Times* reported on November 9, they had "voted an indorsement of the steel strike" at their convention in 1919. Lastly, Lusk had already raided the New York office of the Union of Russian Workers on August 14, 1919, and got away with it, so it was safe for Palmer to try it.

This is the way the raid was carried out. In the Russian People's House at 133 East 15th Street, a community center, one room was the office of the Union of Russian Workers, the rest were classrooms where students were studying English, arithmetic, auto repairing, and other subjects. The police herded together everybody—teachers, pupils, and all, including veterans just discharged from the army.

The people in the building were startled at the entry of the police, and asked the meaning of the intrusion. Reported the *New York Times* (November 8): "The harsh command to 'shut

up, there, you, if you know what's good for you,' brought silence."

The *New York World* stated the same day that "the officers had no difficulty in obtaining admission to the house."

Yet the *Times* reporter observed that "A number in the building were badly beaten by the police during the raid, their heads wrapped in bandages testifying to the rough manner in which they had been handled."

Next day the *Times* reported that "Thirty-three men, most of them with bandaged heads, black eyes or other marks of rough handling" were taken to the immigration offices at Ellis Island, while 150 others were set free, but "Most of them also had blackened eyes and lacerated scalps as souvenirs of the new attitude of aggressiveness which has been assumed by the Federal agents against Reds and suspected Reds."

One victim later said, in sworn testimony confirmed by a fellow victim, "On the way down they had to pass a line of men, each of whom hit the passerby with a club or blackjack."¹⁰ The federal agents finished their evening's work by smashing desks, typewriters, furniture, and the premises in general.

That night hundreds were arrested. Yet to some papers that did not make news. The *New York Times*, for instance, focussed its readers' attention on two men who were *not* arrested—the Soviet envoy Martens and his associate Nuorteva.* To be sure, neither of them had anything to do with the Union of Russian Workers, but that was beside the point. Neither did a lot of other people who were arrested that night.†

* Santeri Nuorteva, Martens' associate, was originally the representative of the first democratic Finnish Republic, prior to its overthrow by Baron Mannerheim with the aid of the German army. He had been living in the U.S. for several years, was editor of a Finnish daily in Massachusetts, and had published an English-Finnish dictionary in 1916.

† The *New Republic*, May 12, 1920, in an article by William Hard, told of the case of one man who had been jailed for five months, and beaten into unconsciousness, for having attended a class for mechanics at the meeting hall of the Union of Russian Workers on Nov. 8, 1919, in Bridgeport, Conn.

Now the hysteria was really stepped up to the seething point. Twenty-four hours later, at 9 P.M. on November 8, seven hundred policemen under Lusk's direction entered seventy-one Communist Party meeting rooms in New York, arresting scores of people and seizing literature.

Raids against the I.W.W. throughout the northwest followed, launched on November 13 by local authorities after the Centralia incident.* Palmer joined them on November 14, and was credited with seizing the *Seattle Union Record*, official A. F. of L. paper, which had urged calmness and a fair trial for the I.W.W. members. Four members of the staff were indicted by a federal grand jury.

On November 14 Martens was subpoenaed by Lusk. He replied that he was answerable only to the State Department. However, when he was summoned by the sheriff, Martens consented to appear. He was cross-examined by Lusk on November 17. The next day the *New York Tribune* carried an eight-column headline:

MARTENS ADMITS LENINE SENT HIM TO OVERTHROW U. S.

As this was the exact opposite of what Martens had said, he brought a libel suit for \$1,000,000 against the paper.¹¹ But scare headlines continued to appear as the hearings went on before the Lusk Committee in November and December. Martens spoke freely, explaining his diplomatic mission, answering questions as to his citizenship, political belief, and so on.¹² When he declined to reveal the channels through which he was in communication with his government, he was adjudged in contempt by Lusk. Martens then simply went to Washington, D. C., which put him out of Lusk's jurisdiction.

The Red scare build-up went on. For six weeks hysterical

* On Armistice Day, some participants in a "patriotic" parade attacked the I.W.W. hall in Centralia, Washington. Wesley Everett of the I.W.W. was lynched by a mob the same night. Some of the attackers were killed in the fight. Seven I.W.W. members were later sentenced to 25 to 40 years in jail.

headlines against the men arrested on November 7 blackened the papers. Outstanding was the "revelation" headlined in the *New York Times* (November 26, 1919):

RED BOMB LABORATORY FOUND HERE
HID IN SECRET ROOM IN RUSSIANS' HOUSE
MARTENS AGAIN DEFIES LUSK INQUIRIES

These headlines appeared over the story about another raid on the Union of Russian Workers building at 133 East 15th Street, New York, on November 25. This was the sixth raid of the year at this place. Although in the five previous raids nothing of the sort was discovered, now the raiders claimed to have found a "secret room" in which there were several dozen bottles, of which some were labeled muriatic acid, sulphuric acid, glycerine sulfate, ammonia hydrate; also some sulfur and charcoal, and a container labeled TNT.

The "find" provided headlines for three days—but for all this supposedly deadly array there were no arrests and no charges brought against anyone.¹³

At last came the sensational climax. With the press howling "Back to Russia," some 249 persons were loaded onto the transport *Buford* to be deported. Two of the deportees were the anarchists, Emma Goldman and Alexander Berkman, but the commercial press wrote as if 249 Emma Goldmans were being deported. One newspaper called them "249 blasphemous creatures who not only rejected America's hospitality and assailed her institutions but also sought by a campaign of assassination and terrorism to ruin her as a nation of free men."¹⁴

In actual fact, only four of the 249 were anarchists, and 47 others had been held guilty of "no government" utterances. Fourteen were deported for charges other than radicalism. The vast majority, 184, were deported merely for membership in the Union of Russian Workers, deported with the most callous disregard for families which were thus torn apart and in many cases left utterly destitute. Yet it was estimated that probably 175 of

them did not even know the clauses in the organization's constitution which Palmer considered "subversive."¹⁵

After the *Buford* sailed, December 21, 1919, Palmer's men were ready for their next move. Now Palmer sent out his final, secret instructions.¹⁶ His agents were to raid labor and Communist centers throughout the nation, on one night, simultaneously and without warning. The instructions told the agents-provocateurs to set the trap:

If possible you should arrange with your under-cover informants to have meetings of the Communist Party and Communist Labor Party held on the night set. I have been informed by some of the bureau officers that such arrangements will be made. This, of course, would facilitate the making of the arrests.

Legality might be dispensed with:

I leave it entirely to your discretion as to the method by which you should gain access to such places. If, due to the local conditions in your territory, you find that it is absolutely necessary to obtain a search warrant for the premises, you should communicate with the local authorities a few hours before the time for the arrests is set and request a warrant to search the premises.

Warrant or no—and there were no search warrants issued—the instructions directed "All literature, books, papers, and anything hanging on the walls should be gathered up."

In the same vein the instructions told the Department of Justice's men to hold instant "hearings," denying the accused the right to have counsel:

As soon as the subjects are apprehended you should endeavor to obtain from them, if possible, admissions that they are members of either of these parties, together with any statement concerning their citizenship status.

Betraying the flagrant disregard of legality was this point: "In cases where arrests are made of persons not covered by warrants . . ." the agents were to notify the local immigration

authorities and the Washington office of the Department of Justice.

In every case, as soon as the raids were made, the agents were to telegraph J. Edgar Hoover, Special Assistant to the Attorney General, giving the number of arrests; to telephone him by long distance about any special seizures or questions; to mail complete reports to him by special delivery.

Conscious of the high-handed illegality of his plans, Palmer tried to obtain a fig-leaf to cover himself up. He asked the Department of Labor to issue warrants on his bare word that he had proof of "guilt" without producing any proof. This was properly denied to him. Thereupon he submitted a pile of mere mimeographed blanks as "affidavits," and John W. Abercrombie, solicitor of the Department of Labor, an appointee of the Attorney General assigned to that department, perfunctorily issued to him 3,000 so-called "warrants."¹⁷

With Abercrombie, by chance or maneuver, temporarily acting head of the Department of Labor, Palmer was able to pull off another stunt. On December 29, 1919, Rule 22 of the procedure on handling aliens was quietly changed to eliminate the right to counsel at hearings.¹⁸ Even Secretary of Labor W. B. Wilson (former national secretary of the United Mine Workers) did not know of this change till January 27, 1920, when he immediately revoked it.

Working in this manner behind the backs of even Cabinet members, Palmer planned his *coup* with great secrecy. However, in some places his agents had to turn to local officials for additional forces. In one or two cases these local politicians were moved by a high sense of personal ambition, jumped the gun, and nearly gave away the whole plan. In Illinois, State's Attorney Maclay Hoyne and his staff "started the New Year in Chicago with a determination to wipe out Bolshevism and anarchy in this community for years the center of the nation's radical activities." (*New York Times*, January 2, 1920.) Hoyne arrested over two hundred persons in three hundred "raids." His pose of high-mindedness, however, was a little marred by

some unseemly bickering between him and Palmer's men over who should get the credit.

Senator Lusk in New York also got in under the deadline by making some arrests in Utica, Rochester, and Buffalo, having previously arrested 18 in Cortlandt County.¹⁹

The net was spread for citizens and aliens alike: the citizens to be turned over to state authorities, the aliens to be deported. The prize catch, of course, would be Martens. For him, on December 29, 1919, J. Edgar Hoover submitted a special memorandum brief, ready for the prosecution the moment he would be arrested.²⁰

THE NIGHT OF JANUARY 2, 1920

At nine o'clock on Friday evening, January 2, 1920, in seventy or more cities, the G-men struck. Descending without warning on public meetings, banquets, private homes, they dragged 10,000 men and women from their peaceful assemblages, their tables, even from their beds.²¹

In New York City they seized seven hundred. (*New York Times*, Jan. 3, 1920.)

Meetings wide open to the general public were roughly broken up. All persons present—citizens and aliens alike without discrimination—were arbitrarily taken into custody and searched as if they had been burglars caught in the criminal act. Without warrants of arrest men were carried off to police stations and other temporary prisons, subjected there to secret police-office inquisitions commonly known as the "third degree," their statements written categorically into mimeographed question blanks, and they required to swear to them regardless of their accuracy.²²

The raiders, "numerously recruited for the occasion from 'roughneck' groups of the 'strikebreaking' variety," made merry over their successful swoop, cavorting indecently with comic masks made from pictures of Debs and Marx which they had torn from the walls.²³

In Boston four hundred were taken, handcuffed to each other like a chain gang, and paraded publicly through the streets. The same spectacle was repeated with men arrested in New Hampshire and taken through Boston to Deer Island in Boston harbor. The manner in which they were treated moved Federal Judge George W. Anderson to say "a mob is a mob, whether made up of government officials acting under instructions from the Department of Justice, or of criminals and loafers and the vicious classes."²⁴

In Connecticut the raiders included private detectives hired by industrial corporations. In Philadelphia the raids netted a mere two hundred, but from here "there came the most explicit accusations of 'third-degree' treatment in the worst physical-force sense."²⁵

Everywhere the dragnet swept up the most innocent passersby. In one town in New Jersey a committee of neighbors were soliciting funds to pay for the burial of a poor Polish immigrant who had died. Their path crossed that of the raiders, and they were taken in the haul.²⁶ New Jersey also supplied Palmer's men with the bomb angle they liked to use. The *New York Times* reported on January 4, 1920:

Four iron balls were seized in a raid in Newark. Although the men who had possession of them insisted they were used for bowling, they were put in buckets for long immersion by the Federal authorities, who believe they are bombs.

Apparently this bit of display was too raw even for the *New York Times*. In any event, "Those four iron balls must have melted in the pail of water, for they were never heard of again."²⁷

The raid in Detroit marked a peak in brutality. Here the raiders invaded the House of the Masses and seized the musicians and dancers at a ball, diners in its restaurant, students in a geography class. These, together with persons seized elsewhere, eight hundred men in all, were crowded for six days into a *corridor* on the top floor of the Federal Building, a corridor without windows, stifling with the heat rising up the central

well from the floors below. Without proper toilet facilities, the stench was soon unbearable. The men were left to stand, sit or sleep, indifferently, on the hard floor. They were held incommunicado, and many of them were there the full six days before their families found out where they were. No food was supplied, except that sent in by friends who came looking for particular men. Here most of the victims were kept from January 2 to January 8, 527 remaining to the last day. Of these, 128 were then moved to a cellar room in the Municipal Building, measuring 24 by 30 feet, with one window. They were jammed in here for seven days, with no food except coffee and two biscuits twice a day. By this time their condition was so shocking that Mayor Couzens and the Common Council of Detroit passed a resolution declaring that the further detention of the men there was a menace to public health. They were then transferred to old army barracks at Fort Wayne. Of the 800 seized, at least 350 were found to be American citizens or aliens with no radical interests. Warrants for the remaining 450 did not arrive until January 12.²⁸

So went the pattern of the raids across the country on the night of January 2, 1920. Next day Mr. Average Citizen read eight-column headlines in his newspaper. Thus the *New York World*, January 3, 1920:

2,000 REDS ARRESTED IN 56 CITIES THROUGHOUT NATION
IN GREATEST SIMULTANEOUS FEDERAL RAIDS OF HISTORY
VAST WORKING PLOT TO OVERTHROW GOVERNMENT FEARED

Or if he bought the *New York Times* (January 4), he read:

REDS PLOTTED COUNTRY-WIDE STRIKE
ARRESTS EXCEED 5,000, 2,635 HELD
THREE TRANSPORTS READY FOR THEM

For the benefit of those people who might take these announcements of nearby revolution too seriously, the Palmer men gave our reassuring statements. "I believe that with these raids the backbone of the radical movement in America has been

broken,' declared Chief Flynn at 12:30 this morning." (*New York Times*, January 3, 1920.)

Under the headline "Revolution Is Smashed" the *Times* next day declared: "With 500 foreign-born members of the Communist Party on Ellis Island at midnight and more than 2,500 others held elsewhere for deportation, the torch of the Red revolution burned low last night."

Apparently certain of the conclusion, despite the seeming concession of the word "alleged," the *Times* described the victims in Boston: "The alleged Reds, bound together with chains and under a heavy guard, are being taken to Deer Island, where they will be held for deportation."²⁹ Reporting that no less than 2,700 "perfect" cases had been taken, the *Times* added, "It is the hope of the Department of Justice to serve practically all of the warrants before the crusade is dropped."

The raids continued, by way of mopping up, providing more scare headlines every day. As late as January 20, 316 persons were arrested in Seattle.

Somehow, however, the "mystified" press reported, the supposedly much-sought-after Ludwig C. A. K. Martens remained at liberty. He was in Washington, D.C., at the time preparing to testify before the Senate Foreign Relations Committee. His associate, Santeri Nuorteva, held open press conferences in a Washington hotel. But the G-men couldn't seem to find him. The headlines in the *New York Times* of January 8 twinned the "hunt" for Martens with another episode in the hysteria:

ALBANY ASSEMBLY BARS OUT FIVE SOCIALIST MEMBERS
PALMER AGENTS HUNT MARTENS WITH WARRANT TO DEPORT

On January 11 Congressman Victor Berger was again barred from the House of Representatives despite his re-election. That same month the papers headlined the trial of Jim Larkin, the Irish labor leader, and others arrested in the Luisk raids of November, 1919, and the indictment of 85 Communists in Chicago following Hoyne's pre-Palmer raids. Among these were

Charles E. Ruthenberg, John Reed, Charles Krumbein, and Rose Pastor Stokes.

On January 21, J. Edgar Hoover appeared before Secretary of Labor William B. Wilson and presented his case for the deportation, under the law of October 16, 1918, of Engelbert Preis, an Austrian, and several other members of the Communist Party. The Secretary of Labor upheld his case. Thereupon Hoover announced again that he had three thousand "perfect" cases and that there would soon sail two, three, or more "Arks" in the wake of the *Buford*. As for Martens, who had appeared in public in Washington since January 10, and had been testifying before the Senate Foreign Relations Committee, Hoover proclaimed that he would be arrested as soon as he completed his testimony. (*New York Times*, Jan. 11, 22, 25, 27.)

But this time he spoke too soon. Unfortunately for his intentions, not everyone agreed that he had nearly so many "perfect" cases. Like a flash of lightning illuminating the dreary atmosphere of the raids, there came an open letter of denunciation to the press from Francis Fisher Kane, United States District Attorney in Philadelphia, who resigned his office in protest on January 12. Jackson H. Ralston, general counsel of the A. F. of L., followed by denouncing the illegality of the raids before a Congressional committee which was holding hearings on the Graham bill, sponsored by Palmer. This bill proposed the death penalty for "sedition."

Protests began to accumulate. The Chicago Federation of Labor was among the first to speak out against the raids. In Detroit it was a committee of prominent citizens which took the lead, outraged by the atrocious confinement of the victims in the Federal Building. Businessmen like S. S. Kresge, Frederick F. Ingram, and F. E. Brown, Bishop Charles D. Williams of the Protestant Episcopal Church, and lawyers like F. E. Steelwagen and F. M. Butzel headed the committee.³⁰ Jane Addams of Hull House in Chicago came to the defense of Hoyne's victims.³¹ In New York young Elizabeth Gurley Flynn co-ordinated

the efforts of different labor defense groups. (*New York Times*, Jan. 7, 1920.)

Big cracks appeared in the "perfect" cases. On April 10, 1920, Louis F. Post, Assistant Secretary of Labor, ruled in the case of Thomas Truss, an Amalgamated Clothing Workers' official, that a party membership card was insufficient evidence, thereby spiking J. Edgar Hoover's prime contention. Carefully reviewing the evidence, Post dismissed the cases of hundreds who had been wrongfully held for deportation. Between April and June a number of raid victims sued for their freedom in Boston, leading to sharp condemnation of Palmer's proceedings by Federal Judge George W. Anderson.³² On May 5, Secretary of Labor Wilson ruled that members of the Communist Labor Party were completely exempt from the deportation statute, this time rejecting Hoover's argument.

In April and May, impeachment charges were brought in Congress against Assistant Secretary of Labor Post and referred to the House Committee on Rules. That old Jeffersonian democrat sturdily stood his ground. He rebutted the charges, made a monkey out of the Red-baiters, and began the work of completely exposing the raids to the public.

Lastly, on May 28, 1920, there was made public a brochure entitled *To the American People, Report Upon the Illegal Practices of the United States Department of Justice*. Published and distributed by the National Popular Government League, this indictment was signed by twelve of the most eminent lawyers in the United States—Felix Frankfurter, later Justice of the Supreme Court; Roscoe Pound, dean of Harvard Law School; Zechariah Chafee, Jr., author of the classic book, *Freedom of Speech*; Francis Fisher Kane and David Wallerstein of Philadelphia; Alfred S. Niles, of Baltimore; Ernst Freund, of Chicago; Jackson H. Ralston, of Washington, D.C.; Swinburne Hale and Frank P. Walsh, of New York; Tyrrell Williams, of St. Louis; and R. G. Brown, of Memphis, Tennessee. This report reproduced evidence showing how the raids had flouted the law and the Constitution.

Months later, under pressure from Senator Thomas J. Walsh of

Montana, these charges were heard before a sub-committee of the Senate Judiciary Committee, January 19 to March 3, 1921.³³ The exposure of the Palmer raids by now was as thorough as it was shocking. Still the reactionary chairman of the Judiciary Committee, Senator Thomas Sterling, kept the scandal buried until 1923, when a whitewash report was finally issued together with a protest by Senator Walsh.³⁴

From these three sources come the charges analyzed in the following pages: from the report of the twelve lawyers, from Judge Anderson, and from Senator Walsh.

HOW THE RAIDS TRAMPLED ON THE CONSTITUTION

The Palmer raids were illegal from first to last. They were perpetrated in violation of the Constitution and the established laws of the land which A. Mitchell Palmer and J. Edgar Hoover were sworn to uphold. Although the raids were carried out by government officials, the Department of Justice had no authority whatsoever to act in any form or manner with respect to the deportation of aliens. The power of dealing with aliens who were subject to deportation was at that time expressly vested by Congress in the Department of Labor. Federal Judge Anderson declared the Department of Justice had "no more legal right and power to deal with the exclusion or the expulsion of aliens than has the Department of the Interior."³⁵

George E. Kelleher, who was responsible for arrests in fourteen cities in Massachusetts and six in New Hampshire, netting over six hundred in the Boston area alone, was asked by Senator Walsh: "By virtue of what law does an agent of the Department of Justice make an arrest in a deportation case?" Kelleher replied: "I do not know of any law."³⁶

If it was illegal for the Department of Justice to go about arresting aliens under the deportation statute, how much more illegal was it to arrest citizens on that pretext. Yet hundreds of

* In 1940 the immigration service was transferred to the Department of Justice.

citizens had been arrested. In the wholesale manner in which the raids were conducted it could not be otherwise. In fact the raids had been aimed at citizens also. The instructions specifically provided for it, inserting the specious excuse that such arrests were to be made "by mistake." "Only aliens should be arrested; if American citizens are taken by mistake, their cases should be immediately referred to the local authorities."³⁷

Having thus acted illegally without jurisdiction, it followed that Palmer was guilty of outright diversion of funds in violation of Article I, Section 9, of the Constitution, which states: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law." This applies, first, to the deportation cases. Senator Walsh levied this charge, pointing out that the deficiency appropriation of \$1,000,000 of November 4, 1919, was authorized for the detection and prosecution of *crimes*. Palmer himself conceded that deportation cases are not criminal proceedings, and offered the excuse that he had acted at the request, or at any rate, in co-operation with the Department of Labor. However, W. W. Warwick, Comptroller, retorted that the Department of Justice had acted "without request or authority of the Department of Labor" and that the expenses incurred in the raids were not chargeable to the Labor Department's appropriation.³⁸

Secondly, there was illegal diversion of funds in the issuing of prepared plates of propaganda and the pamphlet *Red Radicalism*³⁹ by the Department of Justice. Said the report of the twelve lawyers: "For the Attorney General to go into the field of propaganda against radicals is a deliberate misuse of his office and a deliberate squandering of funds entrusted to him by Congress."⁴⁰

VIOLATIONS OF THE FOURTH AMENDMENT

The raids violated the Fourth Amendment on four counts. The Fourth Amendment reads:

The right of the people to be secure in their persons,

houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

This constitutional guarantee was violated by the arrest of hundreds—citizens as well as aliens—without the shadow of a pretense of a warrant. Not only were persons arrested for attending a Communist meeting, but even for merely being on the premises. For example, 63 Hartford workingmen were jailed without warrant on November 8, 1919. They had met only to discuss buying an automobile for instruction purposes. Palmer himself admitted that when their friends came to visit, they too were at once arrested and jailed.⁴¹ A Mr. Peter Musek, for instance, applied on December 24, 1919, to see a friend who had been jailed in Hartford since November 8, 1919. He was himself arrested, held incommunicado for two weeks, and not released on bail till March 18, 1920. During his imprisonment, he later testified, Department of Justice men tied a rope around his neck and threatened death if he did not “confess.”⁴²

Another instance of such an arrest, backed up by a warrant after his arrest, was highlighted by the *New York Times* of January 6, 1920:

Volodin walked into the Department of Justice headquarters during the afternoon and sought information about a friend who had been sent over to Ellis Island. He was arrested himself and served with a warrant charging him with being a Communist.

There is a significant point of law involved here. Under common law, arrests without warrant are legal only in heinous crimes when the criminal is seized in the act or in hot pursuit. Deportation law is statutory law, not common law, and arrests are legal only by warrants issued pursuant to law. This novelty of arrests prior to warrants which are then sent for by telegraph was invented by the Department of Justice and was thoroughly illegal.

These telegraphic warrants were an aggravated case of a second general violation of the Fourth Amendment, to wit, issuing warrants without sworn statements. The 3,000 warrants issued were done as a "job lot," with mimeographed "affidavits" which were neither signed nor sworn. The excuse was offered on behalf of Palmer's men that the oath of office satisfies the requirement of an oath to the warrant, but this was an unconstitutional doctrine. Said Senator Walsh:

In the troublous period preceding the Revolution warrants of arrest were issued upon the mere demand or statement of officers of the Crown and on equally frail support writs of assistance were sued out authorizing searches for goods alleged to be smuggled.

These were among the acts of oppression which brought on the war. It was at this very practice that the amendment in question was aimed.⁴³

Upon such unsworn warrants thousands of persons were arrested and jailed and over 500 actually deported.⁴⁴

A third violation of this amendment was the high-handed searching of premises and seizure of personal papers and effects, even including wall hangings, as directed by the instructions and carried out by Palmer's men. None of these searches and seizures had the suggestion of a warrant issued, whereas the Constitution prescribes not merely warrants but sworn warrants "particularly describing the place to be searched . . . or things to be seized."

Furthermore, a search warrant could legally be issued only if an alien were charged with a crime, and then, pursuant to judicial proceedings. Since deportation cases were based on statutory law, which did not provide for search warrants, no search warrants could be legally authorized.

It is ironical, then, that the law-enforcing Attorney General felt it in order to instruct his agents that where it was "absolutely necessary" search warrants should be obtained—warrants which could not be lawfully issued!

In those days, and in fact until recently, it was a well-recog-

nized principle that "a warrant of arrest does not authorize search." The courts had repeatedly refused to admit evidence so seized, regarding it as illegal (*Silverthorne v. U.S.*, 251 US 385; *Weeks v. U.S.*, 232 US 392; also *Ex parte Jackson*, 263 Fed. Rep. 110).*

Finally, still in violation of the Fourth Amendment, after these illegal arrests hundreds were held in unlawful confinement from several days up to five months, awaiting the arrival of the telegraphic warrants. There was the case of John Ivanauskas, for example, arrested on January 2 and held 57 days before a warrant was issued. Perhaps the worst example was the case in Hartford, where over ninety men were kept in practically solitary confinement for five months from November, 1919, to April, 1920.⁴⁵

VIOLATIONS OF THE FIFTH AMENDMENT

The Palmer-Hoover agents were guilty of even more violations of the Fifth Amendment, particularly the clause which states that no person "shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty

* It is a matter of serious concern that in May, 1947, a 5-4 decision of the Supreme Court (*Harris v. U.S.*, 331 US 145) upheld a conviction of an alleged forger based on evidence seized by the F.B.I. during the arrest without a search warrant. Justice Murphy declared that "The principle established by the court today can be used as easily by some future government to suppress political opposition under the guise of sedition as it can be used by a government determined to undo forgers and defrauders."

Justice Felix Frankfurter said in the same case: "How can there be freedom of thought, freedom of speech or freedom of religion, if the police can, without warrant, search your house and mine from garret to cellar merely because they are executing a warrant of arrest? How can men be free if all their papers may be searched, as an incident to the arrest of someone in the house, on the chance that something may turn up, or rather, may be turned up? Yesterday the justifying document was an illicit ration book, tomorrow it may be some suspect piece of literature."

It is not without significance that Justice Frankfurter, in a footnote to his opinion, calls attention to the 1920 Report of the twelve lawyers, to Judge Anderson's opinion and to L. F. Post's book.

or property without due process of law." While deportation proceedings are not criminal cases, the spirit of this guarantee certainly does not infer that persons held for deportation should have less rights than persons accused of crime. Thus the Supreme Court has held, and this was the opinion of the committee of distinguished lawyers, and of Senator Walsh.

This constitutional guarantee was first violated by the use of illegally obtained evidence, in contravention of the court decisions cited above. Secondly, in flagrant disregard of any concept of due process of law, the burden of proof was put on the "accused." It has been a matter of pride for centuries that in English-speaking countries the accused is held innocent till proved guilty. Yet these arrests were made indiscriminately on the opposite principle as stated in the instructions: "If a person claims American citizenship, he must produce documentary evidence of the same."

In other words, an arrested person was presumed an alien unless he could prove otherwise. And this was the guiding rule under which the raiders seized 39 men in the act of organizing a co-operative bakery in Lynn, of whom more than half were citizens, and took classroom students, restaurant diners, dancers, and the orchestra musicians out of a community center in Detroit!⁴⁶

Hearsay evidence was used to condemn men to perpetual exile from the United States: for example, alleged membership rolls, which were not even identified as such, and, if they were, could only be hearsay evidence.⁴⁷

In hundreds of cases an arrested person was "compelled to be a witness against himself" by third degree and other forms of compulsion. In like fashion the raid victims were compelled to sign questionnaires filled out for them by F.B.I. agents, whether the statements were true or not.

The spirit of due process of law, and likewise the right to have counsel (Sixth Amendment) were both outraged by the denial of counsel, and above all by the skullduggery around Rule 22. Under the rule as promulgated by Secretary of Labor

Wilson in March, 1919, aliens were entitled to counsel at their hearings. But in Wilson's absence, and after the warrants were issued, Acting Secretary John W. Abercrombie, a Department of Justice man too, since the Attorney General nominated the departmental solicitors, quietly changed the rules to eliminate this right of counsel. Said Federal Judge Anderson repeating the words of Felix Frankfurter:

Now if there is one thing that is established in the law of administration, I take it that it is that a rule cannot be repealed specifically to affect a case under consideration by the administrative authorities, that is if there is an existing rule which protects certain rights, it violates every sense of decency, which is the very heart of due process, to repeal that protection, just for the purpose of accomplishing the ends of the case which come before the administrative authority.⁴⁸

And in this case, he went on, "there was a sudden, calculated and surreptitious deprivation of that safeguard which was sought to protect the rights of all and particularly those who were innocent."

VIOLATIONS OF THE EIGHTH AMENDMENT

The Eighth Amendment stands next among those guarantees of liberty which the raids nullified: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

The usual amount of bail in deportation proceedings at that time was \$500, but the Department of Justice in many cases now demanded \$10,000, or twenty times as much. The majority had to put up \$1,000 or double the normal amount. Francis Fisher Kane found some of the victims languishing two and three months in jail for lack of bail;⁴⁹ Senator Walsh charged that bail was set high by "design to keep the prisoners in jail rather than to insure their appearance."⁵⁰ The lawyers' report cited the case of a barber, Anton Dimitroff, who was arrested

on November 7, 1919, in the midst of shaving a customer, and who was kept in jail until April 7, 1920, because he could not raise the \$10,000 bail.⁵¹

Other ways were found to deny bail. The authorities at Ellis Island co-operated with Palmer by refusing to accept cash bail, while the National Surety Co. and the Maryland Casualty Surety Co., two of the largest bonding agencies, refused to give bond for "patriotic reasons."⁵² It took the word of Assistant Secretary of Labor Post to reassure one New York surety company which had received warnings of official displeasure.⁵³

"Cruel and unusual punishments" are banned by the Eighth Amendment, but without regard to this or any other point of law, Hoover's men used fists and blackjacks and subjected those jailed to the most abominable conditions.⁵⁴

Handled with brutality, exposed to the severe January weather, it was no surprise that at Ellis Island alone there were six deaths among those arrested in New York. (*New York Call*, January 17 and 21, 1920.) At Deer Island, Boston, one went insane and another committed suicide.⁵⁵ The full number of these extreme victims can now only be guessed.

VIOLATIONS OF THE FIRST AMENDMENT

There was no worse feature in the Palmer raids than the thoroughgoing and flagrant violation of the spirit of the First Amendment, which guarantees freedom of assembly and of the press. In every case the raids were a violent and lawless invasion of a lawful and peaceful assembly. This is true not only of the classes, the bakery meeting, the dances, but the Communist meetings as well.

Moreover the raids were specifically directed against the freedom of the press. The last-minute instructions sent to the F.B.I. men on December 31, 1919, said, in telegraphic emphasis:

You should at once make every effort to ascertain whether any aliens connected with editorial boards your territory of Communist papers. Particularly desirous that

these persons be taken into custody at time of arrests.⁵⁶ Said the *New York Times* on January 4, 1920:

One of the features of the raids was the effort to break up sources of propaganda. The Communist Party alone had twenty-five newspapers printed in several languages actively supporting its cause. . . . Mr. Garvan [Assistant Attorney General] stated that, although his information was incomplete, it was reasonably certain that the whole editorial staffs of most of the Communist Party newspapers had been taken.

Freedom of assembly was most insidiously violated by the use of provocateurs and spies, who had become a regular part of the Department's apparatus, as the last-minute instructions and the *Times* report of January 3, 1920, showed.⁵⁷ Most of these agents remained under cover, but one notorious spy named Herman Bernhard testified in open trial before the Board of Education in Buffalo, January 27, 1920, that as a Department of Justice agent he joined the Communist Party and became recording secretary of its Buffalo branch. On his testimony a school teacher was dismissed. Later he helped obtain a conviction under a New Jersey statute by similar testimony.⁵⁸

This sordid spy system was further exposed in the cases tried before Judge Anderson in Boston. The Bureau of Investigation Division Superintendent G. E. Kelleher was asked on the witness stand if his agents had a hand in organizing the raided meetings. Evasively he admitted, "There is that possibility."⁵⁹

William J. West, Assistant Division Superintendent, testified later in the same trial that he transmitted instructions to undercover agents to arrange for the holding of meetings on January 2.⁶⁰ In summarizing the testimony, Judge Anderson held that:

This instruction necessarily implies that the Department of Justice then had, in these two parties, pretended members having sufficient influence so that they could arrange "to have meetings . . . held on the night set." It shows that the government spies were then active and

influential in these proscribed parties; they were not mere onlookers.⁶¹

Judge Anderson went on to suggest that there was a possibility that the documents on the basis of which the then Communist Party was proscribed might have been deliberately given "form and color" by the government agents and that therefore the decision against the Communist Party should be reviewed:

Now that it appears that government spies constituted in December, 1919, an active and efficient part of the Communist Party, it may well be that the Secretary of Labor will find it desirable, through his own forces, to institute some investigation of the nature and extent of the possible activity and influence of these spies in giving form and color to the documents on which the Secretary based his ruling in the Preis case.⁶²

THE CONFESSION OF J. EDGAR HOOVER

After all these outrageous proceedings, it is hard to imagine anything more scandalous. Yet it is a fact that as of the date of the raids, membership in the then Communist Party had not been declared grounds for exclusion of aliens under the deportation act, and membership in the Communist Labor Party never was. Nevertheless those arrested were expected to determine the lawfulness of an organization about which federal judges disagreed even after Secretary Wilson's ruling of January 24, 1920.* Indeed, until that date there was no ruling, executive, congressional, or judicial, which determined the legal status of the Communist Party, and not one of the victims could possibly have known that such a ruling might be made. Moreover, many members of the Communist Labor Party were persecuted even though the Secretary of Labor later specifically ruled that the party was legal.

Seventeen years after these events, a book was published called *Federal Justice*, written by Homer Cummings, Attorney

* For example, Judge Anderson in Boston held it to be legal.

General under Franklin D. Roosevelt, and Carl McFarland. The book tells among other things how Harlan F. Stone reorganized the Department of Justice in 1924 after the Teapot Dome scandals. Stone insisted that the F.B.I. should not concern itself with individual political opinions but with matters relating to existing laws. J. Edgar Hoover, as a subordinate, bowed to the inevitable, and submitted a statement accepting this correct policy, in a memorandum to Assistant Attorney General William J. Donovan: "It is, of course, to be remembered that the activities of Communists and other ultra-radicals have not up to the present time constituted a violation of the federal statutes,' the Acting Director of the Bureau of Investigation, formerly in immediate charge of counter-radical activities, acknowledged, 'and consequently, the Department of Justice, theoretically, has no right to investigate such activities as there has been no violation of the federal laws.'"⁸³

Thus, grudgingly and reluctantly, did J. Edgar Hoover confess that the entire Palmer raids project from first to last was illegal and unconstitutional.

PALMER'S SIDE OF THE STORY

Not Palmer and Hoover alone but the Administration and the whole system that they represented were responsible for the raids. However, since Palmer took full credit and defended those acts as committed in his name, it is worth while touching on his personal role as well as examining his defense.

Palmer himself made it clear that he assumed responsibility even for the acts of his local agents. He defended them in the Senate and House hearings and said explicitly:

There was also established in the Radical Division a careful reviewing system of reports of the special agents upon radical investigations, which has resulted in a close and intimate touch between the department in Washington and the field offices of the bureau in any part of the country so that no step in the investigation can be

taken without the knowledge of the Washington office being called to the same promptly.⁶⁴

It was widely spoken that Palmer's Presidential ambitions played a big part in his calculations.⁶⁵ Others have considered him a weak pawn in the hands of hard-headed subordinates playing on his fears. Consider the psychology of a Cabinet member, a national statesman, who submits the report of the F.B.I. to a House committee with the comment: "It is highly interesting, significant and entertaining, but it is not good reading late at night when you are at home in your own house. It gives you the creeps a little."⁶⁶

Quite humorlessly and seriously Palmer seems to have taken his own fantastic words to another Congressional committee on June 12, 1919:

We have received so many notices and gotten so much information that it has almost come to be accepted as a fact that on a certain day in the future, which we have been advised of, there will be another serious and probably much larger effort of the same character which the wild fellows of this movement describe as a revolution, a proposition to rise up and destroy the government at one fell swoop.⁶⁷

Of course, Palmer was quite capable of not believing this. Listen to the voice of Palmer the Quaker "pacifist," the "friend" of the immigrant, and the self-styled advocate of civil liberties.⁶⁸

Every instinct of my nature, planted there by heredity, by training at my mother's knee, by education, by teaching in the holy place of God's worship, revolts at the thought of war—yet I was for this war from beginning to end.

We cannot be less willing now than we have always been that the oppressed of every clime shall find here a refuge from trouble, disorder, and distress.

The life of the Republic depends upon the free dissemination of ideas and the guarantees of freedom of speech, press and assembly, long held sacred in the minds of our

people. These rights must not be abridged in any particular.

On two occasions Palmer made extensive public defenses of his activities. The first time was before the House Committee on Rules when the attempted impeachment of Assistant Secretary of Labor Post boomeranged into an exposure of Palmer. The latter appeared before the committee on June 1, 1920, and submitted a 209-page argument, followed by 726 pages of exhibits. On the second occasion he gave extended testimony before the Senate Committee on the Judiciary when he was directly under fire from the twelve lawyers.

Nothing damns Palmer more than his tactics to cover himself up. In the face of the clear evidence as to the horrible conditions in the Detroit Federal building, attested to publicly by the custodian of the building, by the Mayor and the Common Council, as well as a citizens' committee that included well-known businessmen like S. S. Kresge and Frederick F. Ingram, and Bishop Charles D. Williams of the Protestant Episcopal Church, Palmer dared to tell a Congressional committee that "there was not a single complaint made by any alien detained there as to the eating, sleeping or other conditions in the Federal building."⁶⁹

In an attempt to explain the damage done to the Russian People's House in New York during the raid of November 7, 1919, Palmer asserted that "the destruction of property in the building was caused chiefly by boys in the neighborhood who entered the building some time after the officers had left the place."⁷⁰

This is flatly contradicted by the eyewitness report of the raid in the *New York Times* of November 8, 1919: "Doors were taken off, desks were ripped open, even the few carpets were torn up to find possible hiding places for documents."

Trifling in content but highly revealing was the sequel to Palmer's June 2 testimony before the Rules Committee that he "casually picked up a copy of the magazine entitled *The New*

Republic and saw on the outside of the cover in flaming black and red letters, 'Is Palmer Guilty of High Crimes?'⁷¹

The editors of the *New Republic* offered a reward of \$1,000 to anyone who could produce any of its covers printed with red letters.*

Palmer also resorted to half-truths and shifty evasions, as, for example, in the Cannone case. Gaspare Cannone was arrested on March 30, 1920, was beaten up by Department of Justice agents in their Park Row offices, and compelled to "testify" that certain persons, whom he did not know, were guilty in the June, 1919, bomb affair, and his signature was forged to a "confession."

To the House Rules Committee Palmer alibied that he knew nothing about the case and he promised to investigate and report. Up to the time of the Judiciary Committee hearings in January, 1921, he had not yet submitted anything, but then he hastily turned in a series of affidavits from his agents by way of report. To the Senate Committee Palmer did admit, though evasively, that Cannone was arrested without warrant. The forged signature, his agent skillfully explained, was affixed to the confession "for identification purposes only." As for the photographs of Cannone which showed the marks of his third degree treatment, Palmer said he could produce some showing him in good condition. To clinch his rebuttal Palmer submitted the report of his man, Frank A. Faulhaber, to J. Edgar Hoover, which blurted out that as for Cannone, "He admitted agitating in connection with a barbers' strike in Brooklyn some time ago."⁷²

Palmer stooped to personal attacks and petty aspersions on his critics, by way of confusing and evading the issues. He peppered his statements with sneers at the "twelve gentlemen said to be lawyers" and "the so-called twelve distinguished lawyers." Interspersing Red-baiting with falsehood he alleged that they had acted as counsel for the Communist defendants, which was not true.⁷³

* *New Republic*, June 30, 1920. The title to which Palmer referred was actually printed in black and the article was by William Hard, *New Republic*, May 12, 1920.

Palmer offered the denial of his agents as if it were sufficient and conclusive proof against the accusation of any particular victim. If he had merely stuck to that he might have won some credence but in his final statement to the Senate Committee, he gave himself completely away:

I apologize for nothing that the Department of Justice has done in this matter. I glory in it. I point with pride and enthusiasm to the results of that work; and if, as I said before, some of my agents out in the field, or some of the agents of the Department of Labor, were a little rough and unkind, or short and curt, with these alien agitators whom they observed seeking to destroy their homes, their religion and their country, I think it might well be overlooked in the general good to the country which has come from it. That is all I have to say.⁷⁴

For all that Palmer escaped unscathed. The report of the Judiciary Committee chairman, Senator Thomas Sterling, was a complete whitewash—so much so that he did not dare publish it till forced to by Senator Walsh in 1923. Sterling adopted the same tactics as Palmer. His report was full of evasions, such as, "It seems incredible. . . . The committee cannot believe. . . ."

Not one of the specific charges made in Walsh's report was disputed by Sterling. Instead Sterling stooped to personal attacks and anti-labor baiting; and as Palmer hid behind his agents' denials, so Sterling hid behind the formula, "The Attorney General claims . . ." and let things go at that, not daring to say what he thought on his own authority.⁷⁵

The Sterling whitewash moved Senator Walsh to declare that it "would if approved or acquiesced in, afford more occasion for alarm, in the view of the undersigned than even the acts of the department he has hitherto felt compelled to condemn."⁷⁶

ARE ALIENS PERSONS?

There was only one contention advanced by Palmer and Sterling, a legalistic one, which might possibly exonerate them

in the eyes of a pound-of-flesh law, although not in the eyes of humanity or a democratic citizenry. They argued that aliens may not claim the protection of constitutional guarantees such as the Fourth Amendment, even though the Bill of Rights says "people" and "persons," not just "citizens." They based themselves on a Supreme Court verdict in the case of *Fong Yue Ting v. U.S.* (1893), 149 US 698. In this case the court did not specifically deny these rights to aliens but ruled that Congress has power to admit or exclude aliens; that the power to expel may be exercised entirely through executive officers; and that certain aliens who resided in the United States without certificates then required by law might be taken into custody by a customs officer, collector of internal revenue, marshal or deputy, not for imprisonment, punishment or deportation, but for a hearing before a judge. The court further held that these were not criminal proceedings and that the Fourth Amendment, due process and jury trial did not apply.

Against this single none-too-definite opinion invoked by Palmer, there is a mass of legal evidence to prove that aliens are entitled to the protection of the Bill of Rights and had been so protected by the courts before the time of the raids. Both the lawyers' committee and Senator Walsh made this clear. Harlan F. Stone, then Dean of Columbia Law School and afterwards Chief Justice of the Supreme Court, sent his opinion to Jackson Ralston, one of the twelve lawyers, for inclusion in the record, stating, "an alien who has been admitted to the United States by the immigration authorities is a 'person within the United States' and therefore entitled to the protection of the due process of law guaranteed by the Constitution to persons within the United States." 77

This principle had been voiced by the Supreme Court in the case of *Yick Wo v. Hopkins*, 118 US 356 and restated by Justice Shiras in the case of *Wong Wing v. US*, 163 US 228ff:

And in the case of *Yick Wo v. Hopkins*, 118 US 356, 369, it was said: "The Fourteenth Amendment to the Constitution is not confined to the protection of citizens.

It says: 'Nor shall any state deprive any person of life, liberty or property without due process of law nor deny to any person within its jurisdiction the equal protection of the law.' These provisions are universal in their application to all persons within the territorial jurisdiction, without regard to any differences of race, color, or nationality; and the equal protection of the laws is a pledge of the protection of equal laws." Applying this reasoning to the Fifth and Sixth Amendments, it must be concluded that all persons within the territory of the United States are entitled to the protection by those amendments, and that even aliens shall not be held to answer for a capital or other infamous crimes, unless on a presentment or indictment of a grand jury, nor be deprived of life, liberty or property without due process of law.

Justice Field in the same case wrote a powerful concurring opinion in which he declared:

The term "person" used in the Fifth Amendment is broad enough to include any and every human being within the jurisdiction of the republic. A resident, alien born, is entitled to the same protection under the laws that a citizen is entitled to. . . . This has been decided so often that the point does not require argument.⁷⁸

The right of aliens, as well as citizens, to counsel was clarified in the case of *Whitfield v. Hanges*, 222 Fed. Rep. 745-756 (1915). Justices Sanborn, Adams and Smith of the Eighth Circuit Court of Appeals held, without dissent, that (as summarized in the syllabus):

An alien, as well as a citizen, is protected by the universal principle that no person shall be deprived of life, liberty or property without due process and his hearing must be in accord with "the fundamental principles which inhere in due process of law."

This decision specifically took notice that denial of counsel before a hearing, or delay of counsel, violated the due process principle.

Another case in which the Fourth and Fifth Amendments were invoked on behalf of aliens was *US v. Quong Wong*, 94 Fed. Rep. 832. In this case the court held that aliens also are to be safeguarded from the unreasonable seizure of their private papers, and that such papers, when unlawfully seized, may not be used as evidence against them.

Judge Anderson, in the Boston cases arising from the raids, ruled, with voluminous citations, that:

Aliens have constitutional rights. The Fourth, Fifth, Sixth and Fourteenth Amendments are not limited in their application to citizens. They apply generally to all persons within the jurisdiction of the United States.⁷⁹

As for Palmer's contention that the constitutional protection was not applicable because deportations are not criminal proceedings, in *Weeks v. US*, 232 US 392 (1914), Justice Day stated: "This protection reaches all alike, whether accused of crime or not." Hence Professor Chafee declares on pages 241-242 of his *Freedom of Speech*: "It is inconceivable that the Amendment has no application to non-criminal proceedings."

So much for Palmer's defense by legal quibbles.

THE INNOCENCE OF J. EDGAR HOOVER

Recently J. Edgar Hoover has been at pains to disassociate himself from responsibility for the Palmer raids, in a lengthy answer to questions about the F.B.I. in the *New York Herald Tribune* (November 16, 1947).*

The character of his replies in general may be gauged by balancing these two statements in different paragraphs:

"The F.B.I. does not keep files on all people in the United States."

* Another disclaimer of responsibility for the raids appears in an introduction signed by J. Edgar Hoover to *The Story of the F.B.I.*, edited by *Look* magazine, 1947. The same introduction makes the inaccurate statement that Martens, whose name is misspelled, was deported in January of 1920.

"The identification files of the F.B.I. . . . contain more than 105,000,000 sets of fingerprint impressions."

So two out of every seven persons in the United States may console themselves that as yet the F.B.I. does not have files on "all people."

Mr. Hoover asserts in his reply to the *Herald Tribune*: "The facts are a matter of record. I deplored the manner in which the raids were executed then, and my position has remained unchanged."

The facts are indeed a matter of record. The printed record of the House Rules Committee Hearings and the Senate Judiciary Committee Hearings show that J. Edgar Hoover sat alongside of Palmer, prompted him, supplied him with answers whenever he faltered, that Palmer constantly turned to Hoover for the "facts" which he himself lacked. Mr. Hoover appears on pages 46 and 53 of the Rules hearings, and on pages 8, 10, 19, 32, 82, 94, 96, 430, 460, 464, 470, 477, 539, 560, 571, 575, and 649, in the Judiciary hearings, always in defense of the raids, never to deplore them.

Mr. Hoover next declares: "The so-called red raids were carried out by the then Bureau of Investigation under the direction of William J. Flynn. . . ."

Conveniently for Mr. Hoover, William J. Flynn is dead and cannot speak for himself. However, as Mr. Hoover says, the facts are a matter of record. While Flynn was one of the prime movers, it is a matter of record that the key man was "J. Edgar Hoover, since 1917 in charge of counter-radical activities as Special Assistant to the Attorney-General."⁸⁰ On page 19 of the Senate Judiciary Committee Hearings appears this dialogue:

Senator Walsh of Montana: How many search warrants were issued?

Attorney General Palmer: I cannot tell you, Senator, personally. If you would like to ask Mr. Hoover, who was in charge of this matter, he can tell you.

Mr. Hoover next asserts that "The Judiciary Committee could never agree on a report," which is a neat way of dodging all

the charges. He further declares of the reports submitted by Senator Walsh, "In none of these reports was there any accusation against me as a member of the Department of Justice." This is another neat evasion, since the charges of illegal practices were brought against the whole department, not any one single person. Neither was there any accusation against Palmer as an individual, or against Flynn. It is convenient for Mr. Hoover that Senator Walsh is dead, and cannot speak for himself.

Lastly, Mr. Hoover asserts that Harlan F. Stone, who had really protested the raids, "would never have appointed me director of the bureau in May of 1924 had I been responsible for the manner in which the raids were carried out."

Conveniently for Mr. Hoover, Harlan F. Stone is dead and cannot speak for himself. *He* cannot tell us what influences convinced him to retain Hoover in the department.

However, Mr. Hoover is being less than candid when he forgets to tell the *Herald Tribune* about his confession of guilt in the memorandum cited above in which he accepted Stone's policy. Or did he also forget to tell Stone that he had authored and signed the illegal briefs against Martens and the proscribed parties, briefs which were illegal because, as he himself admitted, the Department of Justice had no right to investigate their activities?

WERE THE PALMER RAIDS NECESSARY?

We have seen what crimes were committed in the Palmer raids. The question arises: how could high government officials depart so far from the Constitution they were oath-bound to support, and still get away with it?

Palmer said that it all had to be done because there was danger of a revolution, and the newspaper headlines echoed him.

This is not the place to discuss what Washington, or Jefferson, or Lincoln, or other great Americans have said about revolution and the right of the people to choose or change their govern-

ment. Here let us take Palmer at his word and examine the facts.

Was there really such a "danger of a revolution?"

This is what Palmer said at the Senate hearings while trying to get a shadow of legality from the Labor Department to fall upon his exploits:

The deportation statute, of course, is a statute to be executed, I may say, by the Department of Labor.

But in December of 1919, when the situation in this country was pretty bad, Mr. Chairman, when violence had broken out in a great many places of a nature that gave all thoughtful citizens much concern, there was a feeling that there ought to be cooperation, in the enforcement of this statute, of the closest kind between the Department of Labor and the Department of Justice. . . .

The Department of Justice came to the conclusion that there was an organized effort—or that there were several organized efforts—of a quasi-revolutionary nature; efforts were being made to organize masses of people, as we believed and the evidence showed, to attempt to injure the government by force.⁸¹

It is already quite clear that Palmer regarded as tending toward "revolution" even an A. F. of L. strike or threat to strike.

As against the red-scared Palmer a considerable number of calmer witnesses may be cited. First, with specific reference to the Palmer raids, there was Senator Walsh, who said:

Nothing, so far as the evidence here has disclosed, has evinced anything in the nature of preparation for a military uprising. No guns, no munitions of war were accumulated; there was no drilling of soldiers or anything of that kind that would indicate that there was the remotest reason for believing that a military uprising of any kind was in progress; in other words, that the ultimate overthrowing of the Government by force was at hand.⁸²

Alfred E. Smith, governor of New York, when he freed James Larkin, who was arrested in the Lusk raids, wrote: "Moreover there is no evidence that Larkin endeavored to incite any specific

act of violence or lawlessness. What he did was to voice a faith that in the ultimate development of our political institutions there should be the radical changes which I have described. . . ."

Another witness, Senator Robert L. Owen, Democrat, of Oklahoma, speaking in the same month as the Palmer raids, said: "Ninety percent of the talk about the danger of a Bolshevik 'revolution' in this country is nonsense. It is high time to discount hysteria and return to normal thinking." (*New York Times*, January 22, 1926.)

From the liberal wing there spoke the *New Republic* in editorial comment on the raids, January 14, 1920. "Even the anonymous suggestions of nearby revolution were so utterly silly that even Mr. Palmer cannot have taken them seriously."

Reviewing the case of the raid victims in Boston, Federal Judge Anderson wrote in his decision, "There is no evidence that the Communist Party is an organization advocating the overthrow of the Government of the United States by force and violence."⁸³

It may be noted also, in this connection, that both the Communist Party and the Communist Labor Party held open public conventions in September, 1919, in Chicago. Neither federal nor state officials took action based on these proceedings.

As for the allegation that Soviet envoy Martens was directing revolutionary activities in the United States, neither the Lusk Committee in New York, nor the Senate Committee on Foreign Relations, nor the Department of Labor, all three of which investigated him, were ever able to find any evidence to refute his plain statement: "My Government specifically instructed me that the funds at my disposal should not be used for any purpose involving interference in the internal affairs of the United States."⁸⁴

Senator Walsh, we have seen, put his finger on the simple fact that there were no arms or other military preparations found, despite the diligent searches of Palmer's men. On the morning of January 3, 1920, the *New York Times* told of the raid the night before at 183 Henry Street, in Manhattan, where fifty

persons were seized: "Quickly each of them were searched for weapons. Not a weapon was found."

So much for Palmer's alleged "revolution!"

MANUFACTURING HYSTERIA

Nevertheless there was widespread hysteria, artificial excitement, which provided the atmosphere in which the raids could be carried out without fear of an effective nationwide outcry of protest. And no exhaustive research is needed to trace the sources of this hysteria. One need only consult the newspapers of the day.

First, the daily press devoted enormous space to such propaganda. For example, in the *New York Times*, January 11, 1920, the leading article of the magazine section was "Socialism as an Alien Enemy," written anonymously by "A Government Agent," and completely devoid of fact. Similarly, the *New York World* on Sunday, January 4, 1920, ran a full-page feature on "The Growing Menace of Extreme Radicalism." Articles of this type filled the papers in other towns and cities.

Secondly, the commercial press wrote up regular news stories in a vein that conveyed even more opinion than their editorials. An unarmed demonstration in Berlin, Germany, was fired upon by police, but in the *New York Times* of January 4, 1920, it was front-paged in this inflammatory account: "One of those 'gentle and harmless' mobs which the defenders of Bolshevism say should not be met with armed opposition but with kindness and understanding today was given an opportunity to demonstrate freely before the Reichstag. Twenty of the mob are dead and more than 100 wounded."

Not only does this article play down the fact that it was the "law enforcers" who did the shooting and not the so-called "mob," but the story was given an eight-column headline to twin it with another one that read: "Trial of Assembly Socialists Set for Next Thursday," referring to the legislative attack on the Socialist assemblymen in New York State.

Where did the press get its inspiration? Much of it came from the Department of Justice and other public officials. Palmer himself authored the 83-page pamphlet *Red Radicalism* and circulated a free page plate of propaganda to editors. The Overman Committee in the U.S. Senate, and Lusk in New York, with his drive to get Martens, both contributed enormously. Following the December, 1919, arrest of 50 in Buffalo by Lusk's men, the local police chief Higgins was quoted as saying: "A fine looking bunch they are. It's too bad we can't line them up against a wall and shoot them." (*New York Call*, January 1, 1920.)

In the same spirit of incitement to force and violence against those who were charged (not convicted) of intending force and violence, Mayor Barewald of Davenport, Iowa, told his police Department: "Load up the riot guns for immediate use and give them a reception with hot lead. We don't want any Reds here and we will go to the limit to keep them out."⁸⁵

Secretary of State Langtry of Massachusetts remarked: "If I had my way I would take them out in the yard every morning and shoot them, and the next day would have a trial to see whether they were guilty." (*New Republic*, January 21, 1920.)

Behind prominent government officials stood big industrial and financial interests. It is the considered verdict of E. F. Dowell, author of the standard history of criminal syndicalism legislation, that:

In practically every state where a criminal syndicalism bill was passed, there is evidence of a bill having been sought by those interests and industries which were having trouble with the I.W.W., feared trouble with them, or were apprehensive concerning the effect of the I.W.W. and radical doctrines on the more conservative unions in a period of labor unrest.⁸⁶

Any deep examination of this shameful episode can only lead to the conclusion that the growth of monopoly control in big business, the domination of production by trusts and banks, had eaten into the democratic foundations of our country to the

point where the government, far from being of the people, by the people, and for the people, had become the agency of the economic royalists. Subservient courts issued injunctions, subservient police departments enforced them, subservient legislatures confirmed the trusts in their power.

An example of the direct intervention of big business in this propaganda was hailed in the *New York Times*, January 15, 1920, announcing that under the aegis of the National Board of Fire Underwriters, "100,000 insurance agents throughout the country were lined up to fight Red Propaganda," and were expected to spread their master's voice regardless of their personal opinions. A prize instance of this kind of propaganda, involving the name of banker Frank A. Vanderlip, was the *Times* article of January 5, 1920, which alleged that a "Bolshevist plot" to discredit money had been uncovered. The scheme was to forge pound, franc, and lira notes, it said. The *Times* added that "a federal source," unnamed as usual, revealed that U.S. war bonds coming in through Mexican and Swedish channels were similarly forged, and so perfectly that only duplication of the numbers led to their detection. Conveniently for the story teller, should anyone demand evidence: "It was said that none of the forged Liberty bonds had got into circulation, and that the Secret Service were confident that none could get in due to safeguards taken at the points of issue."

Palmer personally moved with ease in the financial world. He was a director in the Stroudsburg National Bank, Scranton Trust Co., Citizens Gas Co., Stroudsburg Water Co., International Boiler Co., and Potomac Joint Stock Land Bank.

The hysteria permeated many walks of life, from law-makers to law-breakers.

Lawyers who might believe in the American tradition that an accused person is innocent until proved guilty were informed, with regard to the I.W.W., in the April 18, 1919, issue of the *New York Law Journal* that "Lawyers especially may well consider whether they should give legal aid to such dangerous ad-

versaries of our government and of our fundamental rights and liberties."

This was matched on the other side of the law by this news item in the *New York Sun*, January 9, 1920 (quoted in the *New Republic*, January 21, 1920):

Chicago, Jan. 9. One hundred "Reds" arraigned here today are suffering from black eyes, cut lips, and other scars of battle inflicted upon them by the "respectable prisoners" of the county jail yesterday. Those of the outraged respectability include half a dozen safe crackers, a quintet of auto bandits, and a number of jewel thieves. John Russo, charged with robbery, is said to have been the ringleader of the attack on the radicals.

Russo is quoted as agreeing with Arthur Guy Empey in the January issue of *Uncle Sam*: "What we want to see is patriotism reducing Bolshevik life limit. The necessary instruments may be obtained at your hardware store."

It was refreshing, in the midst of this hysteria, to hear the calm words of the aged Assistant Secretary of Labor Louis F. Post, speaking to the House Rules Committee like the voice of an earlier century:

I can remember my grandfather telling me . . . how Thomas Jefferson was denounced as a "red republican," so I remember that in that period the red color prevailed as the best way of denouncing an opponent with whom one did not agree and whom one could not answer by argument. Thomas Jefferson was a red republican.

. . . A little later because the color scheme was changed from red to black and Abraham Lincoln, who stood in my estimation in about the same place as Thomas Jefferson, was in my time a "black republican"; everybody was scared by black in that time and all you had to do in an argument in order to avoid answering an unanswerable proposition, was to say "You are a black Republican," and that ended the argument.⁸⁷

THE REAL AIMS OF THE PALMER RAIDS

What, then, was the actual direction of the Palmer Raids, since no one was ever convicted for the bombings or for committing any other overt act?

The Palmer raids were directed against the trade unions and the labor movement.

Palmer's own account of his activities against the strikes in steel, coal, and other industries proves this conclusively. Not only Communists, but local trade union officials who were not Communists were notable victims, such as the officials of the cigar-makers union in Chicago. The editorial writer of the *New York Times* showed that he understood this aim of the Palmer raids when, coming to the defense of Palmer (January 24, 1920), he took as his text a speech by ex-President William Howard Taft which declared that "unions tend to Sovietism."

State Senator Lusk of New York, whose antics so frequently dovetailed with Palmer's, contributed as his share to the big news of the raids the announcement that he had "linked" the Amalgamated Clothing Workers to the Communist Party and to Nuorteva of Martens' office. The *New York Times* (January 3, 1920) observed:

In the early summer there were frequent labor disturbances in the clothing industry in the City of Rochester and the Amalgamated Clothing Workers of America gained control over all of the shops of the city with one exception.

Lusk devoted long chapters in his report to "expose" the Amalgamated Clothing Workers, the International Ladies Garment Workers, the International Fur Workers Union, as well as the I.W.W., all in the same Red-scare fashion. There was more than a hint of anti-Semitism in his choice of unions to attack.

Recognizing the raids for what they were, the Chicago Federation of Labor in two resolutions declared that they were "a part of a gigantic plot to destroy organized labor by the employers." These resolutions denounced Palmer's "tsarist methods" and

"terrorist tactics" (*New York Times*, January 5, 1920). Even A. F. of L. President Samuel Gompers came out publicly in opposition to Palmer's sedition bills as inimical to organized labor.

The raids were directed against freedom of speech, the press and assembly, for citizens as well as aliens.

Not satisfied with illegal invasion of lawful and peaceful meetings and seizure of editors with their newspapers, Palmer tried to jam a new "sedition" law through Congress. In its first draft the bill proposed the death penalty for "sedition," and in its "milder" forms asked twenty years jail and \$20,000 fine for citizens, and deportation for aliens and naturalized citizens as well.

What was Palmer's definition of sedition? In the Davey and Graham bills which he endorsed (*New York Times*, January 5, 6, 7, 1920), sedition included "intent . . . to cause the change . . . of any of the laws," and "any act of . . . hate . . . against the person or property of any officer . . . of the United States." Even the *New York Times*, which thought that the aims of these bills were "praiseworthy objects," admitted in its editorial that they were at the very least "extra-constitutional."

The raids were directed against the rights of the Negro people.

Well aware of the political and economic sufferings of the Negro people, Palmer's Radical Division under J. Edgar Hoover took it upon itself to investigate them too: "Toward the close of the European war, the Department of Justice was confronted with considerable agitation and unrest among the Negroes."

It admitted, however, that "To date, the department has not found any concerted movement on the part of the Negroes to cause a general uprising throughout the country."⁸⁸

In his "defense" before the Rules Committee, Palmer submitted thirty-eight closely printed pages of "Samples of Negro Propaganda," consisting mostly of extracts from *The Messenger*, a publication edited by A. Philip Randolph and Chandler Owen, and some I.W.W. leaflets.⁸⁹ His readiness to find a pretext to attack Negro rights was made clear by his comment when he

was unable to think up any motive for the "bombs" addressed to Governor Bilbo, Mayor Scott, and Editor Bullmers, all of Mississippi. "No motive known unless it be antagonism of Negro radicals," was his suggestion.⁹⁰

Inevitably Palmer did discover that the Communist Party stood for Negro rights. With particular horror he reproduced a circular, *Justice for the Negro*, that told Negro citizens and workers that they had the right to strike.⁹¹ Consequently Palmer's raid publicity denounced this "plot" in particular, as in the *New York World*, January 3, 1920, which, under the subhead, "Planned Wide Agitation Among Negro Workers," reported: "Included in the program of the Communist Party, as shown by extracts from the manifesto made public by the Department of Justice, is a plot for widespread agitation among the Negro workers of the country."

The raids were directed against legally constituted political parties, the Communist and the Communist Labor parties, under the guise and smokescreen of deporting undesirable aliens. Palmer admitted using the alien issue for his ulterior aims when he spoke to the Rules Committee:

For I say to you frankly, Mr. Chairman, that I have looked upon this deportation statute not as a mere matter of punishing by sending out of the country a few criminals or mistaken ultraradicals who preach dangerous doctrines, but rather a campaign against—and I have felt that was the purpose of the country—a growing revolutionary movement which sought by force and violence to undermine and injure, and possibly destroy, our Government.⁹²

Here, as usual, the accusation of force, violence, etc., is not supported by any proof.

These aims of the Palmer raids were not the ones that the newspapers hailed in the headlines; but in its gleeful editorial of January 5, 1920, the *New York Times* did not bother to conceal the real motives of the red-hunt when it said:

If some or any of us, impatient for the swift confusion of the Reds, have ever questioned the alacrity, resolute

will and fruitful, intelligent vigor of the Department of Justice in hunting down these enemies of the United States, the questioners and the doubters have now cause to approve and applaud. The agents of the department have planned with shrewdness and large wisdom, and carried out with extraordinary success, the nabbing of nearly four thousand radicals. . . .

This raid is only a beginning. It is to be followed by others. Without notice and without interruption the department will pursue and seize the conspirators against our Government. Some 60,000 Bolsheviks' names are recorded in the department. Its future activities should be far-reaching and beneficial.

Then the payoff, the real reasons for raiding "radicals":

Some of them are making mischief, or trying to make it, in certain American labor organizations. One of their principles and hopes is agitation among the Negroes, regarded as victims of "economic bondage" and material for proletarian propaganda. These communists are a pernicious gang. In many languages they are denouncing the blockade of Russia. . . .

Note particularly that last point: "denouncing the blockade of Russia." That reveals the final aim of the raids.

The raids were directed towards strengthening the administration's unpopular policy of intervention against the efforts of the European peoples to set up their own self-chosen governments, and above all, against the Soviet Union.

In point of fact, since 1918, fourteen countries had been waging war against the Soviet Republic. American troops had intervened against the Soviets in Archangel and in Siberia. However, the intervening powers were by this time in a very bad way. In the late fall of 1919 their heroes, Kolchak, Denikin, and Yudenitch, were decisively defeated by the Soviet forces. The advance of the Red Army was defeating the Allied blockade. The *New York World* of January 4, 1920, followed its lead editorial endorsing the Palmer raids with the doleful cry of its second editorial,

"What Next in Russia?", which declared: "There can be no stronger evidence of the failure of the blockade than the fact that the Soviet Government flourishes in spite of it."

The Allied powers were keenly aware of this fact. They were not yet ready to give up their war of intervention, as the Polish campaign of 1920 showed, but for the moment they did have to make up their minds on the blockade.

On January 16, 1920, the Supreme Council of the Allies met to decide their policy.

In America there were two contending forces. One hoped to go from blockade to renewed intervention; the other advocated peace, an end to the blockade, and diplomatic recognition of the Soviet Republic.

For the war party the Palmer raids were an attempt at a decisive master-stroke. In this aim their domestic and foreign policies dovetailed. The same raids that would stop steel and coal strikes, they hoped, would also choke off opposition to the intervention and give new encouragement to the Entente.

On January 4, 1920, Secretary of State Lansing suddenly released for publication an anti-Soviet memorandum addressed to Senator Henry Cabot Lodge, chairman of the Senate Foreign Relations Committee. The memorandum bore the date October 27, 1919. It had been held secret, in reserve, and now, on the week-end of the Palmer raids, it was issued, splashing in the press all the stock epithets and allegations against recognition of the Soviets.

On that same day, January 4, the *New York Times*, which had maintained editorial silence on the Palmer raids, although its front page had practically nothing else, came out with a one-and-a-quarter column leader on the defeat of Kolchak. It asserted that: "Unless Russian Bolshevism is wholly denatured by some change from within—that is to say unless Russia ceases to be Bolshevist, war between it and the Western World is inevitable."

Two days later, frightened by news of the Soviet truce with the Baltic states, the *Times* was even more insistent: "But if we

do not support the keepers of the Eastern front, if we let them look out for themselves as to a large extent we let the Russian Whites, we may expect eventually to have to fight Bolshevism much nearer home."

On January 15, 1920, Newton D. Baker, Secretary of War, openly revealed the readiness of the administration to renew intervention if Poland and the other pawns should fail. Speaking to the House Ways and Means Committee, he said:

At present Poland is the barrier of western civilization and there is nothing between the Rhine and the Russian armies except the Polish armies.

It is therefore of the highest military importance that the Polish army should be maintained; that it should not be maintained as an army merely; but sustained in its morale so that it will continue to stand as the bulwark it now constitutes.

I know of no way in which that can be done if the civilian population of Poland is not sustained during the present winter. The soldiers will not stay at the front if their families are starving. The soldiers themselves, of course, have to be fed. The importance of this is obvious, I think, from the military point of view.

Almost the same observations as to the importance of this question might be made with regard to Hungary and Austria. If hunger is allowed to exist in Hungary and Austria, if it is allowed to madden the people of those countries—for hunger does produce madness—the same sort of phenomena which have characterized recent Russian history can be expected to grow up in Austria and Hungary; and growing up back of the Polish army, it would impose an impossible task on that army as the barrier of civilization. . . .

And I think perhaps—you know more about this than I do—one might easily conceive a situation growing up in Russia which would call upon America to defend in a military way its own interests, and itself against an im-

possible political or economic civilization in the rest of the world. This would be vastly more expensive, if we ever had to undertake the task, than the very modest sum which is now asked to tide over these central European populations, and give them an opportunity to recover, as they have almost recovered, their economic stability and independence.⁹³

General Tasker H. Bliss testified the same day, making clear how it was hoped that American policy would push the Allies further:

We are going to feed Poland for the purpose of maintaining their morale and the morale of their army, regarding it now as the only bulwark against the Bolsheviks in the East, and we ought to couple that assistance with a demand that the Allies, who have more available military supplies than we have, shall do their share to meet the situation.⁹⁴

Herbert Hoover testified at these hearings too, unctuously appealing for "food relief" because "Poland is maintaining a front of some 1,600 miles against the Bolsheviks. . . . If Poland should collapse . . . it is the most direct menace to the whole civilization of Europe."⁹⁵

To make clear the tie-up between intervention abroad and the Palmer raids at home, Congressman Walter M. Chandler told the Ways and Means Committee:

The Congress of the United States should act at once in the matter of this appropriation from selfish motives if not from sentiments of justice and humanity. We are threatened with anarchy and bolshevism at our very doors and in our midst. . . . The raids of the Department of Justice reveal to us daily, through the press, the extent of the disease and imminence of the danger.

During this same time an opposite tendency had been developing in the United States. A growing number of people came to favor diplomatic relations and peace with the Soviet Republic. In business circles there were many who were bringing pressure

upon members of Congress in support of resuming trade relations with Russia.

THE CLEARING OF MARTENS

To the Palmers and Lusks the symbol of this tendency was the Soviet envoy Martens, and they were conscious that his mission was being increasingly accepted by the American public. Lusk admitted grudgingly that: "The success of the propaganda which Martens has so successfully employed is shown by the growing sentiment among members of Congress favoring the recognition of Soviet Russia."⁹⁶

The raids were designed to strike a deathblow at this new trend. Even though Lusk knew that Congressmen and businessmen were speaking out against the blockade, he painted this trend as another plot. He cited an editorial in *The Communist* which declared that "The first great campaign undertaken by the Communist Party is the struggle to arouse the workers to action against the blockade of Soviet Russia."⁹⁷

Palmer's Assistant Attorney General Garvan followed up by making this issue the prime ground for proscribing the two parties under the Espionage Act, declaring that "both groups were pledged to fight any suggestion of military action by America against the Soviet Russians." (*New York Times*, January 4, 1920.)

The drive to "get Martens" was integral with Palmer's and Lusk's entire campaign. Palmer included him in his preliminary work:

Coincident with the investigations into the activities of the Communist Parties in the United States, the Department of Justice gave particular attention to the work of Ludwig C. A. K. Martens, the so-called representative of the Soviet Government in the United States.⁹⁸

In December, 1919, the Department of Justice asked a warrant for Martens' arrest, and the Department of Labor issued one, on January 2, 1920, after being assured by the State Department

that it would not be embarrassed thereby. Although J. Edgar Hoover was interested enough to have the brief against Martens submitted in his own name, his men were singularly unable to find or arrest Martens, who was known to be in Washington.

Instead Martens appeared before a sub-committee of the Senate Foreign Relations Committee and obtained the protection of its parole during its hearings, which dragged out from January 19 to March 29, 1920. Of this committee, only Senator Moses agreed with Palmer's opinion of Martens, while Senators Borah, Pomerene, and Brandegee disagreed.

To forestall any sensational arrest of Martens after the hearings, Assistant Secretary of Labor Post retrieved the warrant and arranged with Senator Moses and Martens' counsel, Senator Thomas W. Hardwick, for the private serving of the warrant. Then Martens, on parole, was subjected to still more hearings before immigration inspector A. P. Schell, who was recommended by Palmer as particularly suitable for this case. After months of testimony by agents of the Department of Justice, Secretary of Labor Wilson ruled that "Mr. Martens was not proved to have done anything unlawful as an individual."⁹⁹ He held that Martens was liable to deportation only because he was an official of an unrecognized government.

Thus, after all the hysterical outcry in the press, and all the attacks by Lusk and Palmer, Martens' record was proved to be clear of any illegal actions. As he himself pointed out to the Senate Foreign Relations Committee:

I wish to remind the committee in this connection that all my activities have been under constant police surveillance; that my offices once were raided and all its books and correspondence carried away and examined by the authorities of the State of New York; and that I subsequently presented to these authorities for their further inspection all my books and accounts. No evidence of any improper expenditures of money has ever been forthcoming. In spite of this, false charges continued to be made against me in the press. Your committee, by deter-

mining the truth in this matter, will allay needless public alarm and correct an obvious injustice to myself and my government.¹⁰⁰

Even Lusk, who raided Martens' office, and cross-examined him, had to admit that he found no violations of any statutes, and fell back on crude prejudice to assert that "every act which he commits in this country which is beneficial to the Bolshevist regime, whether a direct violation of any existing statute in this country or not, is unquestionably an act of hostility against the government and the people of the United States."¹⁰¹

The fading of the "get Martens" drive was hastened by two curious side issues. One was the fear in certain circles in Washington that the public prosecution of Martens would result in exposing the scandal of the "lending" of millions of dollars from the federal treasury, to Bakhmetieff, "ambassador" of the defunct Kerensky Russian government. (*New York Call*, January 3-4, 1920.) The other was the alleged fear of Lusk and his associates that the Socialist Assemblymen in New York State, if permitted to serve in their elected offices, would expose the fact that he had allowed a British secret service man, R. N. Nathan, to go through Martens' documents and abscond with some valuable trade secrets. (*New York Times*, January 9, 11, 1920.)

Ultimately Martens was allowed to leave the country quietly on January 22, 1921, and the deportation warrant was cancelled. Newspapers which had repeatedly, without regard for the facts, described him "as the real leader of the Communist Party in the United States" (*New York Times*, January 8, 1920), did not bother now to print any retractions.

THE STRATEGY COLLAPSES

To return to the Palmer raids and the schemes of renewed warfare. The Versailles Treaty with Germany went into effect on January 10, 1920. The commercial press in New York told its readers that now the Supreme Allied Council would concentrate

upon the Soviet Republic. Thus the *New York World* ran an eight-column headline January 16, 1920:

BRITAIN, FEARFUL OF RED GAINS, CONSIDERS NEW WAR

The *New York Times*, on the same day, read:

BRITAIN, FACING WAR WITH REDS, CALLS COUNCIL IN PARIS

This was the day after Secretary of War Baker and General Bliss had appealed to the House Ways and Means Committee for aid to Poland and Rumania.

However, the strategy of the allies had changed. Faced by war-weary peoples at home, tempted by offers of commerce, expecting to continue their intervention through other means, the decision of the council announced in *New York Times* headlines (January 17, 1920), was:

NO WAR WITH RUSSIA, ALLIES TO TRADE WITH HER
BLOCKADE SUDDENLY LIFTED BY PARIS COUNCIL

So the Palmer raids came too late to serve their purpose of encouraging the anti-Soviet war, although the damage done to the trade union movement and to progressive political life in the country took many years to repair; and the damage that was done to American democracy and civil rights was so grave that the eminent jurist Charles Evans Hughes was moved to declare in an address to the alumni of Harvard Law School, June 21, 1920: "We may well wonder in view of the precedents now established whether constitutional government as heretofore maintained in this republic could survive another great war even victoriously waged."

THIRTY YEARS AFTER

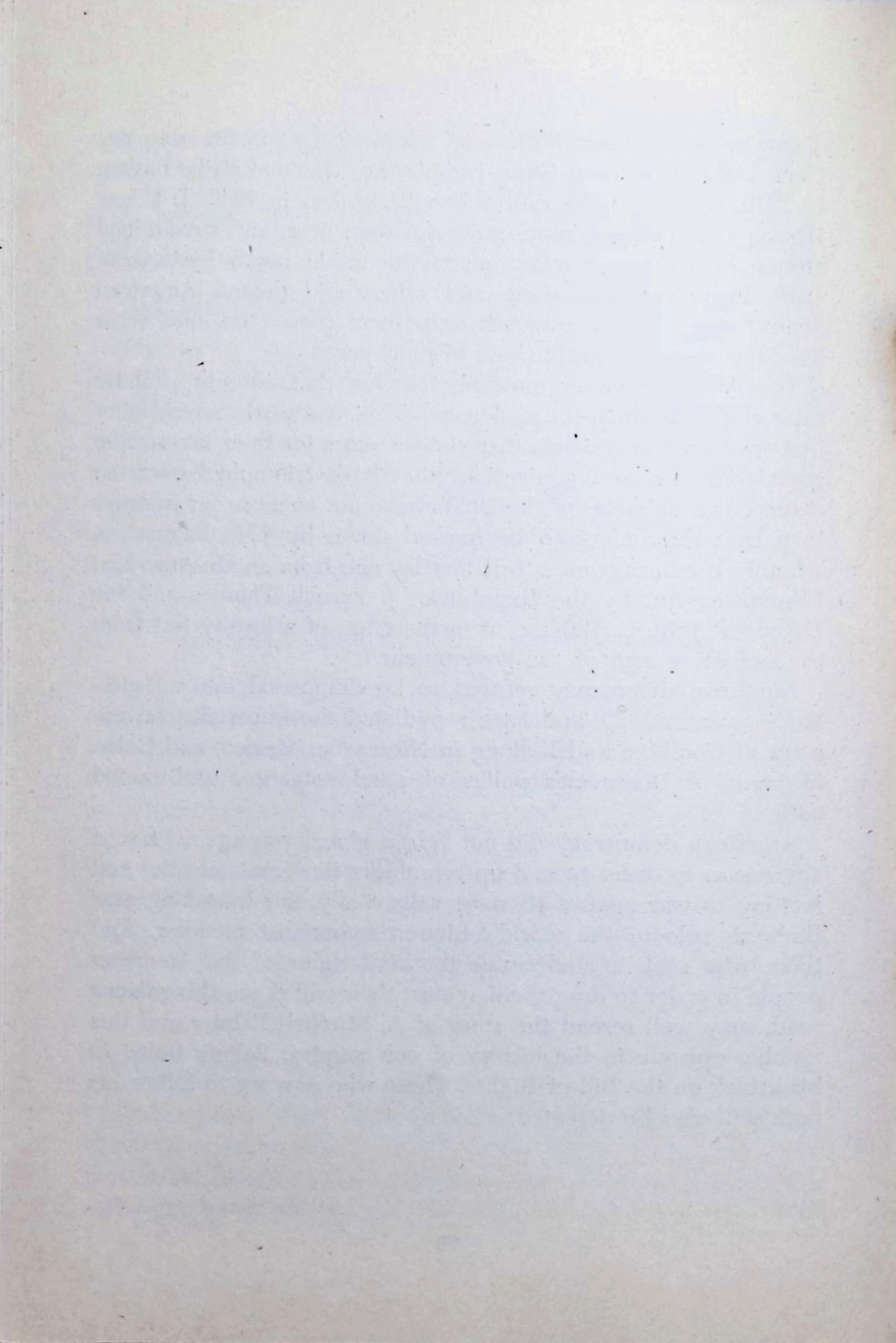
Nearly thirty years have gone by. Another great war has shaken the world, and in its aftermath, history repeats itself in the United States. Again the press screams "Red" on every page, again the tom-toms beat for war with Soviet Russia. Again the

drama re-enacts itself, with only a few changes in the cast. For Gene Debs, now read Gene Dennis. For the coal strike broken in 1919, now read the railroad strike broken in 1946. J. Edgar Hoover is still there, more powerful than ever, and streamlined atomic bomb spy scares replace the crude bomb hysteria of 1919. Francis Fisher Kane and others still defend American democracy; some courageous ones have passed on, and some have forgotten the enthusiasm of their youth.

The American labor movement knows that after the Palmer raids came the open-shop offensive. The steel workers remember that they had to wait another sixteen years for their union. The great trade union organizations that have triumphed over the defeats and debacles of the 1920's have not come so far in order to permit themselves to be hacked down by 1948 Palmerism, whether it comes from a Taft-Hartley act, from an Un-American Committee run by the Republican J. Parnell Thomas and the Democrat John E. Rankin, or in the guise of a loyalty test from the executive arm of the government.

American democracy refused to be dragooned into an anti-Soviet war in 1920, and later repudiated the imperialist adventures of Coolidge and Kellogg in Nicaragua, Mexico, and China in favor of Roosevelt's policy of good neighbors and united nations.

American democracy did not fight a global war against fascist aggression in order to end up rebuilding its recent enemies and inciting to war against its most valiant ally, nor by taking over the Axis role of the world's biggest imperialist meddler. And those who seek to undermine the civil rights of the American people in order to drag them against their will down this ruinous road, may well reread the story of A. Mitchell Palmer and this ignoble episode in the history of our country. Palmer failed in his attack on the Bill of Rights. Those who now try to follow his path will also be defeated.



REFERENCE NOTES

1. Charles A. and Mary R. Beard, *The Rise of American Civilization*, New York, 1927, Vol. II, p. 644.
2. Zechariah Chafee, *Freedom of Speech*, 1920, p. 387.
3. Robert W. Dunn, *The Americanization of Labor*, New York, 1927, p. 22.
4. See his testimony in House of Representatives Committee on Rules, *Hearings*, 66th Cong., 2nd Sess., *Attorney-General A. Mitchell Palmer on charges made against the Dept. of Justice by Louis F. Post and others*, pp. 157-58. The following two quotations from Palmer are from this source.
5. *American Labor Year Book*, 1921-22, p. 40; Art Shields, *The Sacco-Vanzetti Case and the Grim Forces Behind It*, pamphlet, 1921.
6. U.S. Department of Justice. Report of the Attorney General for 1920, pp. 173-78.
7. The following four quotations are from House Rules Committee, *Hearings*, pp. 156-57, 171-73.
8. See *American Labor Year Book*, 1919-20, pp. 414-19. The parties merged in 1921.
9. "This November raiding, however, was only tentative—in the nature somewhat of a laboratory experiment." Assistant Secretary of Labor L. F. Post, *The Deportations Delirium of Nineteen-Twenty*, Chicago, 1923, p. 80.
10. C. M. Pannunzio, *The Deportation Cases of 1919-20*, a report published for the Federal Council of Churches of Christ in America, Chapter III.
11. Also against the *New York World* for the same amount. *New York Times*, Nov. 25, 1919.
12. *Testimony of Ludwig C. A. K. Martens taken before the Joint Legislative Committee of the State of New York Investigating Seditious Activities*. Clayton R. Lusk, Chairman, 1919.
13. *New York Times*, Nov. 26, 27, 28, 1919; *New York Tribune*, Nov. 26, 27, 1919.
14. L. F. Post, *op. cit.*, p. 4.
15. *Ibid*, pp. 24-25.
16. These secret instructions were later reprinted in Senate Judiciary Committee, *Hearings*, 1921, pp. 13-14, and in *To the American People*, issued by the National Popular Government League.
17. L. F. Post, *op. cit.*, p. 56.
18. Senate Judiciary Committee, 1921, *Hearings*, pp. 397-420; Cong. Record, 67:4, p. 3010.
19. Lusk Committee, Report, Vol. 1, pp. 20-24. (New York State Legislature, Joint Committee Investigating Seditious Activities, *Revolutionary Radicalism*, issued April 24, 1920.)

20. Hoover's brief was printed in the Rules Committee Hearings, and answered in Department of Labor, Bureau of Immigration, *In the matter of L. C. A. K. Martens, an alleged alien, Brief on Behalf of Mr. Martens*, ca. 1920, 104 pp. See also Thomas W. Hardwick, *The Status and Activities of L. C. Martens*, statement submitted to a subcommittee of the Senate Committee on Foreign Relations pursuant to S. Res. 263, 66 Cong.
21. The final figure of 10,000 was given by Senator Thomas J. Walsh, Cong. Record, 67:4, p. 3005.
22. L. F. Post, *op. cit.*, p. 92.
23. *Ibid.*, p. 91.
24. *Ibid.*, p. 97.
25. *Ibid.*, pp. 104, 111.
26. *Ibid.*, p. 108.
27. *Ibid.*, p. 94.
28. Senate Judiciary Committee, *Hearings*, 1921, pp. 698, 706, 720-22, 732; Frederick R. Barkley, "Jailing Radicals in Detroit," *The Nation*, Jan. 31, 1920; Post, *op. cit.*, pp. 134-39.
29. *New York Times*, Jan. 4, 1920. See *The Soviet of Deer Island*, pamphlet published by Boston branch of American Civil Liberties Union, Feb. 1920.
30. L. F. Post, *op. cit.*, pp. 139ff.
31. Jane Addams, *Peace and Bread in Time of War*, 1945, p. 185.
32. *Colyer et al. v. Skeffington*; *Katzeff et al. v. same*; *In re Harbatuk et al.*; *In re Mack et al.* District Court, Massachusetts, June 23, 1920, nos. 1833, 1835, 1837, 1845.
33. U.S. Senate, 66:3. Committee on the Judiciary. Charges of Illegal Practices of the Department of Justice. *Hearings*, 1921.
34. Cong. Record, 67:4, pp. 3005-27.
35. Senate Judiciary Committee, *Hearings*, 1921, p. 46. See also the statement of Senator Walsh, Cong. Record 67:4, p. 3007; Z. Chafee, *op. cit.*, p. 242.
36. Walsh, Cong. Record, 67:4, p. 3007; Senate Judiciary Committee, *Hearings*, 1921, p. 494.
37. *To the American People*, p. 42.
38. Walsh, Cong. Record, 67:4, p. 3014 gives the Comptroller's letter in full.
39. *Red Radicalism, as Described by its Own Leaders*, Exhibits collected by A. Mitchell Palmer, Government Printing Office, 1920.
40. *To the American People*, p. 6.
41. House Rules Committee, *Hearings*, p. 76; Senate Judiciary Committee, *Hearings*, p. 698; *To the American People*, p. 11.
42. His affidavit is Exhibit 16 in *To the American People*.
43. Cong. Record, 67:4, p. 3008.

44. Assistant Secretary of Labor Post estimated 556 deportation orders from Dec. 29, 1919, to June 30, 1920, *op. cit.*, pp. 158-222.
45. Z. Chafee, *op. cit.*, p. 245; Senate Judiciary Committee, p. 355; *To the American People*, p. 11.
46. Senate Judiciary Committee, *Hearings*, p. 58; *The Nation*, Jan. 31, 1920.
47. Senator Walsh, Cong. Record, 67:4, p. 3010.
48. Senate Judiciary Committee, *Hearings*, p. 61, text of Anderson's opinion in *Colyer et al. v. Skeffington*.
49. Senate Judiciary Committee, *Hearings*, p. 296.
50. Cong. Record, 67:4, p. 3009.
51. *To the American People*, Exhibit 1c.
52. *New York Call*, Jan. 7, 1920; *New York Times*, Jan. 8 and 9, 1920.
53. L. F. Post, *op. cit.*, pp. 76-77.
54. *To the American People*, Exhibits 1-1c, 2-2f, 5a, 5b, 9, reproducing affidavits in full.
55. Senate Judiciary Committee, *Hearings*, p. 59.
56. Senate Judiciary Committee, *Hearings*, p. 18.
57. For still other examples see *To the American People*, pp. 5-6, and Exhibits 6, 7, 8, 10, 11, 13.
58. *To the American People*, p. 29.
59. *To the American People*, p. 53; *The Nation*, June 12, 1920.
60. *To the American People*, p. 54.
61. Senate Judiciary Committee, *Hearings*, p. 72.
62. Senate Judiciary Committee, *Hearings*, pp. 74-75.
63. Memorandum of Hoover to Donovan, Oct. 18, 1924, Department of Justice File 202600, Sec. 5, given by Homer Cummings and Carl McFarland in *Federal Justice*, 1937, pp. 430-31.
64. House Rules Committee, *Hearings*, p. 166.
65. *New York Times*, Jan. 4, 1920; E. S. Bates, *This Land of Liberty*, 1930, p. 118; Cummings and McFarland, *Federal Justice*, 1937, p. 456.
66. House Rules Committee, *Hearings*, p. 155.
67. L. F. Post, *op. cit.*, p. 49.
68. Quoted in *The Nation*, June 12, 1920.
69. House Rules Committee, *Hearings*, p. 60.
70. House Rules Committee, *Hearings*, p. 100.
71. *Ibid.*, p. 79.
72. Senate Judiciary Committee, *Hearings*, pp. 153, 103; *To The American People*, pp. 31-36; House Rules Committee, *Hearings*, part III, Jan. 26, 1921.
73. Senate Judiciary Committee, *Hearings*, p. 6.
74. Senate Judiciary Committee, *Hearings*, p. 582.
75. Cong. Record, 67:4, p. 3020.
76. *Ibid.*, p. 3023.

77. Senate Judiciary Committee, *Hearings*, p. 279.
78. He cites: *Yick Wo v. Hopkins*, 118 US 356,369; *Ho Ah Kow v. Nunan*, 5 Sawyer 552; *Carlisle v. US*, 16 Wall 147; *In re Lee Fong*, 18 Fed. Rep. 253; *In re Wong Yung Quy*, 6 Sawyer 237; *In re Chow Gov Poi*, 23 Fed. Rep. 77.
79. Senate Judiciary Committee, *Hearings*, p. 44.
80. F.B.I., *A Digested History of the Federal Bureau of Investigation*, 1935, quoted by Homer Cummings and Carl McFarland, *Federal Justice*, 1937, p. 429.
81. Senate Judiciary Committee, *Hearings*, p. 7.
82. Senate Judiciary Committee, *Hearings*, p. 302; also *Congressional Record*, 67:4, p. 3013.
83. Senate Judiciary Committee, *Hearings*, p. 82.
84. U.S. Senate Committee on Foreign Relations, 66:2. Hearings pursuant to Senate Res. 263. *Russian Propaganda*, p. 47.
85. Quoted in American Civil Liberties Union, Leaflet 3.
86. E. F. Dowell, *A History of Criminal Syndicalism Legislation in the U.S.*, Johns Hopkins University, 1939, p. 51.
87. House of Representatives, 66:2, Rules Committee, *Hearings on H. Res. 522, Investigation of Administration of Louis F. Post, Assistant Secretary of Labor, in the matter of Deportation of Aliens*, 1920, pp. 242-43.
88. House Rules Committee, *Hearings*, p. 190.
89. *Ibid.*, exhibits, pp. 614-52.
90. *Ibid.*, p. 158.
91. *Ibid.*, p. 189.
92. *Ibid.*, p. 14.
93. House Committee on Ways and Means, *Hearings*, Relief of European Populations, Jan. 10, 12, 15, 19, 21, 29, 1920, p. 106.
94. *Ibid.*, p. 113.
95. *Ibid.*, p. 65.
96. Lusk Committee, *Report*, Vol. 1, p. 645.
97. Lusk Committee, *Report*, Vol. 2, p. 1150.
98. House Rules Committee, *Hearings*, p. 180.
99. L. F. Post, *op. cit.*, p. 291.
100. Senate Committee on Foreign Relations, *Hearings on S. Res. 263*, 1920, p. 60.
101. Lusk Committee, *Report*, Vol. 1, p. 645.

AMERICAN HISTORY

HISTORY OF THE LABOR MOVEMENT IN THE UNITED STATES

Philip S. Foner
A comprehensive study of the trade union movement and the role of labor in American democracy from colonial times to the founding of the A. F. of L.

Trade \$4.50; Popular, \$3.75

JOSEPH WEYDEMEYER: PIONEER OF AMERICAN SOCIALISM

Karl Obermann
A biography of Marx's co-worker who became an American labor leader and a regimental commander in the Union Army during the Civil War.

Trade \$2.25; Popular \$1.85

LABOR FACT BOOK 8

Labor Research Association
The latest volume of the invaluable biennial report on labor and economic conditions.

Trade, \$2.50; Popular, \$2.00

ESSAYS IN THE HISTORY OF THE AMERICAN NEGRO

Herbert Apthoker
The struggles of the Negro people for emancipation during the main epochs of their country's history.

\$2.00

BUILDERS OF THE AMERICAN NATION SERIES

This series covers selections from the writings and speeches of Samuel Adams, George Washington, Thomas Paine, Thomas Jefferson, Frederick Douglass, and Abraham Lincoln. Each is prefaced by an extensive essay on the life and times of the man by a well-known historian.

Cloth each \$1.00; Paper, \$.35

THE POPULIST MOVEMENT IN THE UNITED STATES

Anna Rochester
The rise, growth, and decline of the People's Party—a social and economic interpretation.

Cloth, \$1.50; Paper, \$.50

WILLIAM SYLVIS AND THE NATIONAL LABOR UNION

Charlotte Todes
The history of the first national federation of labor unions in the United States.

Cloth \$.75; Paper, \$.25

INTERNATIONAL PUBLISHERS

381 FOURTH AVENUE, NEW YORK 16